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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

--oOo--

4042

Coordination Proceeding) JCCP No.

6

Special Title (Rule 1550(b)))

7

In re TOBACCO CASES II)

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9

The People of the State of)

10

California, et al. v. Brown &)

11

Williamson Tobacco Corp., et al.)

12

(SF No. 996781))

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And)

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The People of the State of)

17

California, et al. v. Philip Morris)

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Incorporated, et al.)

19

(LA No. BC 194217))

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DEPOSITION OF
LINDA A. BONIN

Friday, April 14, 2000
Volume 1 (Pages 1 - 151)

REPORTED BY: ANA M. DUB, RMR, CRR, CSR 7445

(05-90945)

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4

1 APPEARANCES OF COUNSEL
2
3 FOR THE DEFENDANT PHILIP MORRIS INCORPORATED:
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12 And)

13)

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15 California, et al. v. Philip Morris)

16 Incorporated, et al.)

17 (LA No. BC 194217))

18)

19 --oOo--

20 BE IT REMEMBERED that, pursuant to Notice

and

21 Subpoena, and on Friday, April 14, 1999,

commencing at

22 9:50 a.m. thereof, at 290 Ridder Park Drive, San

Jose,

23 California, before me, ANA M. DUB, RMR, CRR, a

Certified

24 Shorthand Reporter, personally appeared

25 LINDA A. BONIN

26

27 called as a witness by the Defendant Lorillard

Tobacco

28 Company, who, having been first duly sworn, was

examined

29 and testified as follows:

30 --oOo--

31 //

32 //

33 //

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6

1 EXAMINATION BY MR. GROSS

2 MR. GROSS: Q. Good morning. Could you

please

3 state your name for the record.

4 A. Linda Bonin.

5 Q. Have you ever had your deposition taken

before?

6 A. No. This is the first.

talk

7 Q. Okay. And have you had an opportunity to

discuss

8 to a lawyer, perhaps counsel for the county, to

place

9 what a deposition is and sort of what will take

10 today?

11 A. Just briefly, yes.

a

12 Q. Okay. Well, probably I should go through

to

13 little bit of the ground rules and how we're going

helpful.

14 proceed today. I think that'll probably be

far.

15 We're going to go forward in

16 question-and-answer format like we've done just so

17 The court reporter to my left will be taking down
18 everything that we say.

each

19 It's important for us not to talk over

20 other or interrupt each other as we're going forth
21 because, although the court reporter can do almost
22 anything, she can't actually take down both of our
23 talking at the same time.

happen

24 When we're through with this, what will

little

25 is the court reporter will create a transcript, a

you'll

26 booklet, which will later be sent to you, and

You can

27 have an opportunity to review it for accuracy.

you

28 make changes at that time, although changes that

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7

ever

1 make could be commented on if the transcript were

2 to be used in court.

some

3 At certain points I'm sure I will ask

own

4 questions that, just because of the limits of my

in

5 questioning ability, will be unclear or ambiguous

6 some way. If that happens, stop me and ask me for
7 clarification. Okay?

8 A. Okay.

9 Q. Because last thing I want to do is have
10 confusion based on any unclear question.

perhaps

11 At times I'll ask you a question and

We

12 you really won't know the answer to the question.

record.

13 don't want speculation, pure speculation on the

speculation

14 If you think that my question calls for pure

15 and not some sort of an informed estimate perhaps,
you
16 should let me know that.
17 A. Okay.
18 Q. We can take breaks whenever you would
like to
19 take breaks. It's your deposition, and we should
20 proceed that way.
21 You should also realize that although
today we
22 are in a somewhat informal setting, the court
reporter
23 is taking this down and you are under oath and, at
least
24 potentially, these materials could be used in a
court of
25 law. Do you understand that?
26 A. Yes, I do.
27 Q. One other thing. I just noticed you
nodded.
28 It's also important to make sure that answers are
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8
1 audible for the court reporter because she can't
take
2 down a nod.
3 A. Okay. I understand.
4 Q. Okay. Do you have any questions about
anything
5 I've said so far or any questions about the
procedures?
6 A. No. I think I understand them.
7 Q. Okay, great. Let's start with a little
bit of
8 background about you, just so that we understand
-- I
9 understand who you are and how you came to be here
10 today, I guess.
11 Could you just tell me basically your
12 educational background, starting after high
school.
13 A. I have a B.A. in liberal studies and my
14 teaching credentials for both special education
and
15 regular education, and a master's in education
16 administration.
17 Q. And when did you get your master's?
18 A. Let's see. It must have been around '73,
'75,
19 somewhere around there.
20 Q. Okay. And when did you get your
bachelor's?
21 A. Liberal studies.
22 Q. I'm sorry. When?
23 A. When? Gosh, in about '72, I guess.
Maybe '70.
24 I'm really -- I really have a hard time with
dates, but
25 it was in the '70s, both of them.
26 Q. Okay, okay. Maybe the best thing to do
-- the

27 next thing I wanted to ask you about was your work
28 history, and maybe the easiest thing to do,
especially
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9
1 because it's hard to fix dates very well going
further
2 back, is to work backwards from when you came to
work at
3 the county Office of Education. So let's start
from
4 there and go through the work -- the jobs or
employment
5 history that you had prior to being at the county.

6 A. Okay. How far back did you want to go
with
7 jobs? Say before --

8 Q. No. Probably after your education -- I
assume
9 that -- looks like you went through college and
then got
10 your master's pretty much immediately thereafter.

So I
11 guess I'm looking for work experiences after you
got
12 your master's.

13 A. Okay. After I got my master's. I was
working
14 at the county office at the time that I actually
got my
15 master's.

16 Q. Okay.
17 A. I started out teaching with the special
18 schools, and I taught in both the special schools,
which

19 are for -- I worked with emotionally disturbed
20 youngsters; and then I transferred to the
community

21 schools, working with youngsters that are not
making --
22 are not successful in regular school programs.

23 And I developed a curriculum, a program
for
24 some of those youngsters, and it proved to be
quite
25 successful, and I was asked to expand on it and
offer it
26 to all the students within that whole department.

And
27 then I was asked to come into the county Office of
28 Education and offer it to districts.

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10
1 And that grew into the position that I
2 presently have as the health educator for the
county
3 Office of Education.

4 Q. Okay.

5 A. And it was during that time that I also

went

6 back and got my administrative credential.

you

7 Q. I see. So roughly what time period were

a

8 teaching in the special schools? And I just need

9 rough time.

'78.

10 A. Okay. I came in here in -- probably '77,

11 I began in '78, 1978.

12 Q. Okay.

and

13 A. And I taught, between alternative schools

years.

14 special schools, probably almost close to ten

15 Q. So about 1978 to 1988 --

16 A. Right.

17 Q. -- you were actually doing teaching?

18 A. Teaching.

administrative?

19 Q. And after that, you began to do

20 A. That's right.

doing

21 Q. And at the time period when you started

when you

22 the administrative work, at that point, is that

or

23 became employed by the county Office of Education

whole

24 were you employed by that Office of Education that

25 time?

time,

26 A. I was employed by the office the whole

student

27 but I was working in some of their school --

schools

28 programs through Student Services, and special

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11

1 and the alternative schools department.

Services --

2 Q. I see. So you were in the Student

Office of

3 and we'll get into a little bit more about the

4 Education in a minute, but you were in the Student

5 Services Division at that point.

6 At some point did you switch over to --

7 A. Instruction services.

8 Q. -- instructional services?

9 A. Right. About in 1988, I think it was.

bit

10 Q. And after 1988, can you tell me a little

you've had

11 about the positions or responsibilities that

side?

12 between 1988 to present on the administrative

for

13 A. Initially, I was brought in as a trainer

developed

14 HIV/AIDS education. The curriculum that I had

15 addressed family life education, sexuality among

16 teenagers, and that was the primary focus. They
were
17 using lottery funds to support that effort at the
time.

18 And around 198- -- the end of 198- --
1989, the

19 Proposition 99 was put into place. And that
coordinated
20 so beautifully with health education that they
felt that

21 I was the person to take that on.

22 And so I began looking at the larger
health

23 education picture and particularly with the

Tobacco-Use

24 Prevention Education, Safe and Drug-Free Schools.

So I
25 took on those programs in addition to still
delivering

26 the trainings for HIV/AIDS family life education.

27 And then that has grown, and now it
includes

28 health education in the largest sense and safe
school

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12

1 issues.

2 Q. Okay. During the period from 1978 to
'88, were

3 you doing any health education-type work at that
point

4 or was that all -- I guess what I'm getting at is,
was a

5 component of your responsibilities as a teacher
health
6 education?

7 A. The last five years, when I was working
in the
8 alternative schools in particular, I was working
with

9 very high-risk population, and it was pretty
evident

10 that the kids were sexually active, and they were
fairly

11 ignorant of their behavior and factual information
12 around their behavior. So, yes, I developed a
13 curriculum working with a consultant and actually

began
14 to implement that curriculum.

15 Q. So that was in the community schools?

16 A. That's right.

17 Q. Did that curriculum involve any
tobacco-related

18 education?

19 A. No, it did not. It focused mostly on
family
20 life education, although as part of the health
education

21 component, I do recall that we did talk about
general

22 substance abuse, and tobacco's always been a

component

23 of general substance abuse.

24 Q. I see. So in that context at least,
there

25 would have been some educational activities at
that

26 point --

27 A. Right.

28 Q. -- with these high-risk kids about

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13

1 tobacco-related issues?

2 A. Right.

3 Q. Do you recall whether any of the

4 tobacco-related issues that came up in that
context had

5 anything to do with exposure to environmental
tobacco

6 smoke or secondary smoke?

7 A. I think that that's always a component of
8 information shared with kids about tobacco,

particularly
9 when they have youngsters around or people who are

10 dealing with the various kinds of illnesses, that

11 environmental tobacco smoke has a great deal of
poisons

12 in it and it contributes to some problems --

additional
13 problems for both those populations.

14 So, as I recall, that always came up as
an

15 issue, that environmental tobacco smoke is
something

16 that is a concern, secondhand smoke is a problem.

17 Q. So that is an area of concern that is,

18 generally speaking, part of the tobacco warning
programs

19 that are done by the school districts?

20 A. Yes, yes.

21 Q. Okay. Starting in '88, '89 then, what
was

22 your -- it sounds like you really kind of got
involved

23 right at the very start of the Prop 99 funding
period

24 with respect to the Prop 99 programs.

25 A. Yes, I was involved.

26 Q. And what was your position -- has your
position

27 been the same the whole time, or has it changed,
the

28 actual title of your position?

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14

1 A. Generally -- yes, it has kind of changed.

2 Initially, I think I was just a trainer. There
was --

3 Q. So this -- I'm sorry. Was that in 1988,
'89,

4 thereabouts?
5 A. Yes, yes.
6 Q. Okay.
7 A. And I think it was around '89, '90, in
that
8 period of time, we started thinking it should be
health
9 education. And so at that time I became the
health
10 education coordinator.
11 Q. For the county Office of Education?
12 A. That's correct.
13 Q. Okay. And did it change after that at
any
14 point?
15 A. No. It's remained basically the same.
Health
16 education coordinator's broad enough to encompass
17 anything, so . . .
18 Q. Right. If I understood what you were
saying
19 earlier, it was that over time, even after '89,
'90,
20 when you had first got this broader title --
strike
21 that.
22 In '89, '90 you got this broader title,
and
23 then your responsibilities broadened thereafter
still?
24 A. That's correct, right. They always have
that
25 section, call it duties as assigned.
26 Q. I understand. Is there anybody else in
the
27 county Office of Education who is involved in
28 tobacco-related issues as they relate to schools
in

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15
1 San Jose County, or are you the only person?
2 A. I'm basically the only person in the
county
3 Office of Education that works with the schools
around
4 this issue.
5 Q. Okay. Let's talk a little bit about the
6 organization of the county Office of Education so
that
7 we're all -- we're both talking -- using the same
terms.
8 And I'm just going to try to make sure I
understand from
9 sort of an organization chart perspective how this
all
10 works.
11 Are there various subsections of the
county
12 Office of Education, and if so, what are they?
13 A. There are four subsections. There's the
14 Student Services, Human Resources, Business

Services,
15 and Instructional Services.
16 Q. Could you give me just a very brief
description
17 about what each of those do?
18 A. Instructional Services is the division
that
19 works with the 33 school districts in the county,
trying
20 to support them in whatever -- in whatever way is
21 necessary.
22 Student Services oversees the county
23 office-sponsored programs, such as special
schools,
24 which are schools for very developmentally
impaired
25 youngsters that can't be helped -- that can't be
dealt
26 with in a regular school setting, and the
alternative
27 schools, which are youngsters who fail to succeed
in a
28 regular public school, sometimes have problems
with law
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16
1 enforcement, are in locked facilities. And so
there's
2 that set of schools that the Student Services
oversees.
3 Human Resources helps with the personnel
issues
4 within the office as a whole. There are over 300
people
5 in this office. And they also work with school
6 districts around personnel-type issues and human
7 resource-type issues.
8 And then Business Services actually
processes
9 all the checks primarily, for most of the
districts in
10 the county, as well as other business
responsibilities.
11 Q. So would both the Instructional Services
and
12 the Student Services subdivisions of the county
Office
13 of Education have involvement with respect to
14 tobacco-related education or would only one of
them?
15 A. Both of them would. The Instructional
16 Services' role is more of an administrative role,
to
17 help Student Services implement the programs that
they
18 move to implement.
19 However, it needs to be understood that
these
20 are -- these youngsters are high-risk youngsters,
and in
21 implementing a program like tobacco education,

it's not

22 always perceived by the staff who work with these
23 youngsters as a high priority.

the

24 Q. When you say "these students," you mean
25 students who are involved -- who go to schools

that are

26 overseen by this Student Services Division?

27 A. Exactly.

28 Q. And the Instructional Services Division,
which,

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17

1 again, is your division --

2 A. Um-hum.

3 Q. Correct?

4 A. That's correct, yes.

5 Q. -- provides, I take it, administrative
support

6 also with respect to just the school districts
generally

7 and their tobacco-related programs. And that's
one of

8 the things that you do?

9 A. That's correct.

10 Q. How does the county Office of Education
fit

11 into the rest of the education governmental
structure in

12 the county? Is that a clear question for you? Do
you

13 see what I'm getting at? I'm trying to build the

--

14 A. Right.

15 Q. -- organization chart out a little bit
more.

16 A. If I'm clear on this, the county Office
of

17 Education has its own board, its own governor
board,

18 which are elected officials.

19 Q. Is that the county Board of Education?

20 A. It's the county Board of Education.

21 Q. Okay.

22 A. And so they're pretty much an individual
23 entity, because there is a county Board of

Supervisors

24 that deals mostly with public health and social
services

25 and some of the other social service entities.

26 Q. Right. What is the relationship between
the

27 county Office of Education and the state
Department of

28 Education? Does it report directly up to the
state

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18

1 Department of Education, or is it part of a

different

2 administrative structure?

3 A. No. We're directly linked with the state
4 Department of Education and work directly with

them.

5 Q. I see. Did the school districts report

to the

6 county Office of Education or, for that matter, to

the

7 county Board of Education?

8 A. That's an interesting question. My
9 understanding is that the county Office of

Education is

10 a service entity, and we offer services in support

to

11 the school districts. We don't have any real

power of

12 authority over the school districts unless in

special

13 circumstances the state designates the county

office to

14 assume certain powers over the school districts.

15 But generally, the school districts are

16 operated individually in their own communities

with

17 their own elected boards and to the needs and

designs of

18 those communities in this county. That's not true

of

19 all counties, obviously.

20 Q. Okay. You were speaking about the county

21 Office of Education there. How about the county

Board

22 of Education? Do the school districts operate

23 autonomously or independently of the county Board

of

24 Education, or does that board have a more

managerial

25 function?

26 A. The various boards of the various school

27 districts, to my understanding, operate fairly

28 independently. I think there is some

responsibility

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19

1 when there's a question about students wanting to

attend

2 certain schools and whether or not the county -- I

think

3 the county board sometimes steps in and designates

and

4 gets information either to attend certain

districts or

5 not to attend certain districts. I don't know a

great

6 deal about that.

7 Q. Okay. Does the county board also report

up to

8 the state Department of Education, or is that just

9 something the county Office of Education does?

10 A. I'm not totally clear.

11 Q. Okay.
12 A. The county board works directly with the
county
13 superintendent, and so I'm sure that there's a
reporting
14 process that involves the two of them.
15 Q. I see. And the county superintendent's
the
16 superintendent of schools?
17 A. That's correct.
18 Q. Okay. I'm going to go through a number
of
19 different entities that I picked up reviewing the
20 documents, and I think what I'd like to do is ask
you if
21 you're familiar with them and have you give me a
basic
22 description of what those entities are, and then
maybe
23 we'll go back and get a little bit more detail,
but
24 let's just go quickly through them.
25 The first is probably the most obvious
one,
26 which is the Tobacco-Use Prevention Education
program.
27 Is that what it is, TUPE?
28 A. That's right.
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20
1 Q. For now I'll refer to that as TUPE or
TUPE,
2 T-U-P-E, for the court reporter.
3 Okay. Can you tell me what TUPE is?
4 A. The Tobacco-Use Prevention Education
program is
5 the program that was sponsored by Proposition 99
for the
6 educational -- the education piece of that. And
it's a
7 prevention education program now for Grades 4
through 8,
8 targeting Grades 4 through 8, specifically that
focuses
9 on prevention, intervention and cessation efforts.
10 Q. And when you say "prevention,
intervention and
11 cessation," of smoking?
12 A. That's correct.
13 Q. You had mentioned that it now targets
Grades 4
14 through 8.
15 A. Um-hum.
16 Q. Did it at some other point earlier target
17 different grades?
18 A. When we first began it was a K-12
program.
19 Q. Okay. And when did it change its focus
--
20 A. It was probably --
21 Q. -- hopefully?

four or 22 A. -- about four years into the program,
became a 23 five years -- I have to go back and look -- it
with a 24 more targeted program for Grades 4 through 8, but
Schools is 25 strong encouragement since Safe and Drug-Free
26 a component of this, that the tobacco program be
27 continued and be delivered in all grades. But the
28 funding to support specifically these efforts was
geared

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21
1 to Grades 4 through 8.
next 2 Q. Okay. Well, you actually mentioned the
Safe 3 entity that I was going to ask about, which is the
what 4 and Drug-Free Schools program. Can you tell me
5 that is and how it relates to the TUPE?

from 6 A. Safe and Drug-Free Schools funding comes
years 7 the federal government, and it was initiated many
some 8 ago in the improving schools effort, to provide
assure that 9 support to create exactly the title, to help
10 schools are safe and drug-free. And when it was
11 originally initiated, there was no reference
12 whatsoever -- I don't think there is still any
13 reference -- to tobacco, but it's a much broader
14 program.

15 It's K-12, and it's based on ADA
allocation, 16 and it aligns with TUPE perfectly in that it has
many of 17 the same components. It's looking at prevention
and 18 intervention, and it also looks at school campus
19 environments.

20 Q. A couple questions about that. ADA
21 allocations?

22 A. I'm sorry. Average daily attendance.

23 Q. I see. And you had mentioned that
tobacco is 24 not expressly mentioned as a part of the program,
but is 25 it a part of the program as it's actually
administered?

26 A. It is now, yes. As the years have
evolved and 27 those two programs have become more aligned, it's
28 definitely a component of that.

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22

1 Q. Do you know roughly when the

tobacco-related

2 education became a component of the Safe and
Drug-Free

3 Schools programming?

4 A. Well, again, there -- I think you'd have
a hard

5 time finding exact wording addressing tobacco in
any of

6 the documentation for Safe and Drug-Free Schools,
but

7 since it's channeled through the state department,
the

8 state department has asked school districts to
make sure

9 that the programs are aligned.

10 And that has been off and on for the past
five

11 years, I guess, that there's an actual application

12 process for the two sources of fundings through

13 application process.
one

14 Q. Okay. And so let me see if I understand

15 you're saying. Over the last five years, roughly
what

16 to 2000, maybe '94 to 2000, there have been
1995

17 changes at
at

18 different junctures. But at certain points the --

19 certain points tobacco-related issues have been

20 incorporated into the Safe and Drug-Free Schools

21 program?

22 A. Right, right.

23 Q. Okay. And you couldn't sort of identify
which

24 year it was part of the program and which year it

25 wasn't?

26 A. Well, it's moved back and forth. One
year we

27 combined all these application processes, and then

28 called it Drug, Alcohol and Tobacco Education, and

29 then we split it up again and there were two separate
30

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32

33 1 applications, and then they came back together
again.

34 2 So it's been shifting back and forth.

35 3 Q. Let me make sure I'm clear about it,
though,

36 4 because what you just described to me sounded like
from

37 5 an administrative perspective, tobacco has been
sort of

38 6 expressly, or not expressly, included at various
times.

39 7 What about at the programmatic level,
where the

40 8 actual programs are being done? Was tobacco
sometimes

41 9 part of the program during that five-year period

and

10 sometimes not, or always part of it?

11 A. I -- my speculation is that tobacco is
always a
12 part of these programs, and that at the delivery
level,
13 they don't -- they don't even get into these
issues.

14 Q. I see. And when you say "speculation"
there,
15 you know, how much -- what do you base that on so
I can
16 kind of get a sense of whether it's pure
speculation or

17 sort of an informed estimate?

18 A. I work with contacts in most of the
districts
19 who are working with the teachers who deliver
these
20 programs, and they have worked very hard to
provide
21 comprehensive coordinating programs. And so in
the drug
22 education programs, tobacco is usually a
component.

23 Q. I see. So, in other words, you couldn't
speak
24 for every single school within the entire school
25 district; but generally speaking, based on the
26 information you have from contacts you have at the
27 school and school district level, tobacco has been

a
28 part of the programming that's been done at least
during

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24

1 that five-year period?

2 A. Yes.

3 Q. When did the Safe Free Drug -- I can't
seem to
4 get that one right -- the Safe and Drug-Free
Schools
5 program come into existence or first get funded by
the
6 federal government?

7 A. I'm not sure of the exact date. I know
it goes
8 back over ten years.

9 Q. So about this -- it's been around at
least for
10 the same time period as the Prop 99?

11 A. Right. It was around, actually, before
12 Prop 99.

13 Q. And earlier when you mentioned that the
TUPE
14 program now targets only Grades 4 through 8, I
take it
15 that's because the -- I think I understood what
your
16 testimony to be about was that the Safe Free Drug

--

pick 17 Safe and Drug-Free Schools program is intended to
leaves 18 up after the 8th grade, where the TUPE program
19 off?
20 A. That's correct, yes.
21 Q. What about for the time period before
22 4th grade?
23 A. The Safe and Drug-Free School program is
a K-12 24 program.
25 Q. I see. Why does TUPE -- who decided that
the 26 TUPE program should be focused on Grades 4 through
8?
27 A. The state Department of Education.
28 Q. Okay. So that's a state-handed-down
mandate.

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25
that 1 Do you know why they decided to focus on
2 age group for the Prop 99 funded programming?
3 A. As this whole effort began to move
forward, 4 there was a great deal of research that was coming
out 5 indicating the best ages and approaches for
delivering 6 prevention education. And somewhere along the way
it 7 was decided that Grades 4 through 8 were the
youngsters 8 most receptive to the information, and perhaps
could 9 benefit from -- have the greatest impact with that
age 10 group.
11 Q. And again, this would -- just going back
to 12 your general comment before, the information then
is 13 information about smoking generally, including
14 environmental tobacco smoke issues?
15 A. Yes.
16 Q. Are you familiar with that research or
only 17 generally so?
18 A. Generally so. There's just been lots of
19 research that's come out of this. And I think the
20 research has changed. There's been some shift in
it 21 over the years. So . . .
22 Q. And who -- so basically the Department of
23 Education, the state Department of Education uses
-- 24 engages in research or contracts with researchers
to 25 help them to make these decisions?
26 A. That's correct. They pilot various
programs

27 and monitor them and try to collect the data so
that
28 they're using the funds to the best advantage
possible.

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26
1 Q. You mentioned another program --
2 coincidentally, each time you go through one you
haven't
3 mentioned, the next one I have on my list -- which
was
4 the Drug and Alcohol, Tobacco Education Program.
Could
5 you describe for me what that is?

6 A. Well, actually, we're talking about the
same
7 program. There is -- at one point in time, there
was an
8 application process called Drug, Alcohol, Tobacco
9 Education, and it was the application process for
both
10 Safe and Drug-Free Schools and Tobacco-Use
Prevention
11 Education. And it ran for perhaps, oh, three or
four
12 years, if I recall correctly. And it just became
--
13 they started calling it DATE, D-A-T-E, but it was
--
14 it's the same program.

15 Q. So DATE is the same as the Safe --

16 A. -- and Drug-Free --

17 Q. -- and Drug-Free Schools program?

18 A. Right. And Tobacco-Use Prevention
Education.

19 Q. Oh, I see. It's the two put together?

20 A. Exactly, yes.

21 Q. What time -- when did the term "DATE"
start
22 creeping in as the terminology?

23 A. I don't remember the dates exactly, but
it was
24 probably -- let's see -- four years in the
process, but
25 early '90s, '93 -- '92, '93, somewhere in there.

26 Q. And did this -- is there any
administrative
27 structure that mirrors these names? In other
words, do
28 the safe and drug-free -- is there someone who's
the

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27
1 head of the DATE program, and both the heads of
the Safe
2 and Drug-Free Schools program and TUPE program
report to
3 that person, or is that not how it works?
4 A. I've been the county-level person, and

for the
5 longest time they were calling me the DATE
coordinator.
6 And then we had identified all of our contacts
from the
7 districts. We called them the DATE coordinators.
So
8 those became common terms that were used and --
for that
9 period of time, for the period of time that we
used that
10 application process.
11 Q. So I guess at the county level, you were
the
12 DATE, TUPE and Safe Free Drug-Free Schools -- Safe
and
13 Drug-Free Schools person, all one person?
14 A. Right, that's correct.
15 Q. Now I'm curious about this: Safe and
Drug-Free
16 Schools is a federally-funded program, and TUPE is
a
17 state-funded program, but you were mentioning
joint
18 grants. How does that work?
19 A. The federal funds are channeled through
the
20 state Department of Education. They receive it --
I
21 guess it's in like a block grant. And the state
22 Department of Education actually only gets a
portion of
23 those funds. I guess the Attorney General's
Office also
24 receives some percentage of those funds and the
governor
25 actually gets a percentage of those funds.
26 The state department aligns the grant --
the
27 application process with tobacco so that they can
be
28 distributed to the schools on an average daily
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28
1 attendance basis, number of youngsters within the
2 schools.
3 Q. I see. And when you say "state
department,"
4 you mean the state Department of Education?
5 A. Correct.
6 Q. Okay. Let's go over a couple other
entities
7 that come up in the documents. The Healthy Kids
Program
8 Offices, can you tell me a little bit about what
those
9 are?
10 A. At the state level, California Department
of
11 Education is broken up, as you know, into lots of
12 different departments. And the Healthy Kids

Program
with
Schools
office that
DATE?
up of
and
was
programming
centers.
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29
1 Ours was located at the Santa Cruz County
2 Office of Education.
3 Q. So was that sort of a layer of
administration,
4 then, between the state and each of the county
Offices
5 of Education? Is that sort of --
6 A. Yes.
7 Q. -- the way to look at it?
8 A. Yes. It was initially done to be more
9 efficient in training delivery processes. All the
10 trainings that were needed throughout the various
11 regions were the same, and so they were trying to
12 provide one training that would meet all four
counties'
13 needs, cut down on the cost and expenses,
14 administration, all of that.
15 Q. So it was used for training counties in
how to
16 perform tobacco education?
17 A. Right, and prevention education in
general,
18 yes.
19 Q. You said at one time. It no longer
exists?
20 A. No. The regional centers were eliminated
21 probably, oh, I'd say four or five years for all
of
22 these things, but it's been a number of years ago.
23 Q. Did they do anything other than training?
24 A. Yes. They kept us informed of the latest
25 research. They -- what else did they do? They
worked

26 with the Tobacco Clearinghouse to access materials
and
27 distribute materials. They tried to advance the
whole
28 idea of health education within the schools and
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30
1 continued to promote that.
2 Health education at schools is a hard
issue to
3 address. It's not mandated specifically, not all
of it,
4 and so it needs a lot of support and energy to
keep it
5 alive and moving forward.

6 Q. I see. And when the regional centers
went
7 away, did the counties from there on report
directly to
8 the state?

9 A. Yes.
10 Q. And so what kind of -- what does the
state

11 Department of Education -- what functions does it
12 perform with respect to the counties?
13 A. With this program, they --
14 Q. That's what I mean, right.
15 A. The Healthy Kids Office has -- there are

--
16 let's see how many of us -- there's about 53
17 coordinators comparable to myself throughout the
state,
18 and they have a networking group of us. We have
an
19 on-line listserv where we continually share
information.
20 They bring us together probably three
times a
21 year as a total group and provide us with updates
and
22 information regarding changes in the guidelines
and in
23 legislation and all the various things that happen
24 around this program.

25 This is a very political program, and so
they
26 try to keep us in the information loop and assure
that
27 we're all on the same track and we're trying to
move
28 forward in the same way with the same
research-based

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31
1 information, the same understandings.
2 Q. Do they actually provide in those -- in
that
3 context warning materials or educational
materials, or

4 is it more -- much more general than that?
5 A. It's much more general than that. They
really
6 focus mostly on best practices, best strategies.
And
7 they're moving toward best curriculum, what
curriculums
8 are most effective.
9 Q. When you say "moving towards best
curriculum,"
10 does that mean that right now or at least
historically
11 there's been a variety of different types of
curriculum
12 and the state is trying to consolidate among those
and
13 provide guidance about which ones are the best and
14 should be used?
15 A. Exactly. But again, as you can imagine,
that's
16 a very political process as well. So mostly they
have
17 focused on what strategies should be a part of the
18 curriculum and leaving the curriculum selection up
to
19 individual districts.
20 Q. When you say "political," you mean
because
21 entities like to have their autonomy and use what
they
22 think is best? Is that what you mean?
23 A. That, plus publishers have a vested
interest,
24 have a great invested interest in all of this,
because
25 if they get the stamp of approval, that could mean
their
26 terms are the ones that are purchased throughout
the
27 state. So there are all these issues.
28 Q. Okay. So for now -- up till now, the
state has

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32
1 focused on coordinating at this strategy level
rather
2 than at the specific curriculum level, sort of one
level
3 more general?
4 A. Exactly, yes, which makes abundant sense
when
5 you look at the delivery process in schools.
Sometimes
6 it doesn't even take a curriculum -- really a
specific
7 curriculum to get this information to kids.
8 Q. I take it your point is that each
individual
9 school or school district has special
circumstances, and
10 the idea is to try to tailor the programs to the

special

11 circumstances?

12 A. Exactly.

13 Q. And that's what's done here in Santa

Clara

14 County?

15 A. Exactly, yes.

16 Q. You mentioned the Tobacco Clearinghouse.

17 That's TECC -- is that the same thing as TECC,

T-E-C-C?

18 A. Right, I think so, yes.

19 Q. As I understand it, the Tobacco

Clearinghouse

20 is, I guess, a clearinghouse that holds

educational

21 materials relating to tobacco issues, including

22 environmental tobacco smoke. Is that basically a

23 correct --

24 A. That's my understanding as well. It's

only

25 been in the past couple of years that we've

actually had

26 access to the Tobacco Education Clearinghouse.

27 Q. That was sort of my next question.

28 A. Okay.

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33

1 Q. I hadn't realized that the department

outside

2 of the health -- Department of Health Services

side, now

3 on the Department of Education side, that they

make use

4 of those materials.

5 A. That's only occurred recently.

6 Q. How long again, roughly?

7 A. I would say probably -- oh, dear. I have

such

8 a hard time with this time factor.

9 Q. I do too. I understand.

10 A. I think there was just a very recent

discussion

11 this past year about the availability of those

12 materials, and it was clearly stated that they now

are

13 available. And so it's only been really clarified

in

14 the past year or so.

15 But I know that there were various groups

16 that I was working with five years ago that had

access

17 to those materials, and they would -- through the

18 collaboration that we were working in, they would

bring

19 the materials into the schools. And so even

though we

20 weren't officially -- we didn't officially have

access

21 to them directly, through collaboration working

with

22 other agencies, they usually have been available

to some
23 degree.
24 Q. I see. And do the schools or school
districts
25 or perhaps the county Office of Education pay some
money
26 to the Tobacco Education Clearinghouse for the
27 materials? How do you -- you know, are they free
or are
28 they paid for, or how's that work?

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34
1 A. The ones that I have had access to and
the ones
2 that I've used have usually been free.
3 Q. Okay.
4 A. And each district has their own budget
for this
5 whole program, and so, you know, they use their
budgets
6 to purchase their own materials. And they've made
heavy
7 use of the American Lung, American Heart, American
8 Cancer Society, and most of those materials are
free.

9 Q. You mean when -- you mean each district
in your
10 county has made heavy use of those materials?

11 A. Right.
12 Q. ALA and American Heart and American

Cancer
13 materials?
14 A. Right.
15 Q. Do you know whether the materials that

those
16 three groups provide touch on environmental
tobacco
17 smoke issues as well as regular primary tobacco
smoke
18 issues?

19 A. I'm sure those materials address
environmental
20 tobacco smoke.

21 Q. I also saw references to the County
Health
22 Education Task Force. Can you tell me what that
is?

23 A. With this -- the health education
initiative
24 first began, actually, through the HIV/AIDS
effort. Our
25 county superintendent meets regularly with the
county --
26 with the superintendents of the districts
throughout the
27 county. And at that time it was Art Doorenbos.
And he
28 asked each district to provide a representative to
sit

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35

1 on a task force to work with me in the health
education
2 movement. That has stayed in place ever since.
3 So it's a body of people that represent
most of
4 the districts in the county, and we meet every
other
5 month, beginning in October throughout the year.
So we
6 meet five times a year and discuss whatever comes
up.

7 Q. What's the purpose of doing that? Is it
to
8 make it so that the programs are coordinated as
best as
9 possible?

10 A. Exactly. And to help them access what
11 resources are available, and also to be as
informed
12 about the latest best practices and curriculum.

And
13 basically the same follow-up as what the state
uses with
14 the coordinators in the county, we use the same
process
15 with coordinators from the districts. So it's a
16 funneling of information.

17 Q. To help both -- does it help the
information
18 flow in both ways; in other words, from you to
them?

19 A. Exactly, yes.

20 Q. And also back to them?

21 A. Exactly. And that's also been one of the
22 outgrowths of some of the changes in the program,
is the
23 information has come back from the field, has gone
to
24 the state department. And so the state department
has
25 tried to listen to that information and adjust
programs
26 accordingly.

27 Q. And so basically, the whole purpose --
one
28 broad purpose of this sort of an arrangement is to
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36

1 provide feedback so that the program -- general
2 programmatic issues can be fine-tuned so that
they're
3 the most effective possible?

4 A. Exactly, yes.

5 Q. And I think you said -- let me just
confirm --
6 that this task force has existed from the
beginning of
7 the program?
8 A. Yes.

9 Q. And you said it has people from each of
the
10 districts on it?
11 A. There's an identified representative from
each
12 of our districts, and they either attend the
meeting and
13 get the information directly from the meeting; if
14 they're not in attendance, they get follow-up
packets of
15 what was covered at the meeting.
16 Q. Is there anybody other than the
representatives
17 of the districts and you on the --
18 A. We invite community representatives,
American
19 Heart, Lung, Cancer, Public Health, San Jose PD.
It
20 depends on what the issues are that we're really
21 addressing, because we're looking at the whole
health
22 picture, not just tobacco education. And so
depending
23 on what the issues are.
24 Q. So those people are not actual members of
the
25 task force. They're more people who are invited
26 depending on what the subject matter is that's
going to
27 be discussed, and if it's going to be
tobacco-related
28 things, you might have, for example, American Lung
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37
1 there?
2 A. Generally, we try to keep American Lung,
Cancer
3 and a number of groups always in the information
loop,
4 but then there are other special people that are
invited
5 depending on the focus of the meeting. But there
is a
6 core group of people that we have on our database
that
7 usually receive the agenda and the minutes.
8 Q. Now, for American Lung, Heart and Cancer,
do
9 they have a specific chapter that is the Santa
Clara
10 County chapter? Is that how it works?
11 A. Yes.
12 Q. Is that who you're dealing with?
13 A. Yes, um-hum.
14 Q. And who are those -- are you dealing with
a
15 specific person at each of those groups when you
16 coordinate with them?
17 A. Yes. It changes. It has changed a
number of
18 times over the years. And, yes.

19 Q. Can you give me --
20 A. I do have a contact. I would have to go
get
21 that database, actually.
22 Q. Okay. Are there any other -- actually,
let me
23 back up and actually give you one other that I've
seen,
24 another organization, which is the -- I don't have
the
25 exact name, but I think you will know it. Is it
the
26 Tobacco Prevention Coalition or Tobacco --
27 A. Tobacco Control Coalition.
28 Q. What's that?
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38
1 A. They're the organization that's developed
by
2 the Public Health Department to kind of be the LEA
and
3 oversee the tobacco effort throughout the county.
4 Q. LEA?
5 A. The local educational agency or the lead
agency
6 is the Public Health Department, and this is a
group
7 that helps the Public Health Department direct the
funds
8 that they receive and continually monitor the
Tobacco
9 Education Program in the county.
10 Q. So does it also serve as an interface or
11 coordination function between the county Office of
12 Education and the Department of Health with
respect to
13 these tobacco issues or the Tobacco Control
Program,
14 that is?
15 A. Yes, it does. Their focus is more
community,
16 and ours is educational within the school
settings, but
17 we do try to network and align efforts as much as
18 possible.
19 Q. And are you on the Tobacco Control
Coalition?
20 A. I -- yes. I'm not as active a member as
I was
21 two years ago, but the organization itself is not
as
22 active as it was a couple of years ago.
23 Q. Are there any other administrative
structures
24 in place that are designed to comprehensively
coordinate
25 tobacco education programs and tobacco awareness
26 programs throughout the county?
27 A. In the county itself? Not to my
knowledge.
28 Q. So that's sort of a key coordination

group?

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39

1 A. Right.

2 Q. Are there any other organizational

entities or

3 programs, things like the list that we've just

gone

4 through, that I haven't yet picked up on that are
5 significant?

6 A. With relation to tobacco education?

7 Q. Yeah, in the county.

8 A. I can't think of any.

9 MR. GROSS: If any come up as we go

through the

10 rest of this, just let me know if something jogs

your

11 memory about something else.

12 Would you like to take a break for a

little

13 bit?

14 THE WITNESS: Sure, that sounds good.

15 (Recess taken.)

16 MR. GROSS: Let's mark this one as the

next

17 exhibit.

18 (Whereupon, Defendants' Exhibit 444 was

marked

19 for identification.)

20 (Discussion off the record.)

21 MR. GROSS: Back on the record.

22 Q. Okay. I'd like to now go through some of

the

23 documents that you actually provided to me today,

some

24 of which I'll mark as exhibits. The first one is

25 Exhibit No. 444. I want to show it to you for a

second

26 to make sure -- you have a copy of the same

material,

27 and I want to make sure that the copy you're

looking off

28 is the same as Exhibit No. 444.

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40

1 A. Yes, it is.

2 Q. Okay. Earlier you had mentioned that

there are

3 reports made by, I think, the county Office of

Education

4 to the Department of Education on an annual basis;

is

5 that right?

6 A. Well, more or less. It's kind of a

summary

7 report at the end of the year that's part of the

renewal

8 application process.

9 Q. So for each year, though, there's an

obligation

10 to provide some kind of a report?

11 A. That's correct, yes.

12 Q. And what does the report summarize?

13 A. Basically, in the planning process that

was in

14 the plan we submit to them, we indicate that we're

going

15 to accomplish certain things, and there's a time

frame

16 in which we try to accomplish these things. So

the

17 report summarizes what we achieved, what the

impact,

18 outcomes were, and what barriers we may have run

into,

19 and any thoughts or suggestions about changing

processes

20 to maybe adjust things that would make -- to help

21 improve the situation.

22 Q. The "we" that you're referring to in that

23 answer, in other words, this is the stuff that we

have

24 done, is that the county Office of Education or is

it

25 the county Office of Education plus all the school

26 districts and individual schools?

27 A. The county Office of Education does that

piece.

28 The school districts do more of an actual report,

which

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1 is the report that you have in front of you, and

that's

2 a little bit different from what the county office

does.

3 Q. So let me see if I understand. There's

an

4 annual report, and Exhibit 444 is actually a

sample form

5 of the report?

6 A. That the school districts do.

7 Q. Okay. And does each school district

separately

8 provide this report to the state, or does the

school

9 district provide it to the county and then the

county

10 puts it all together and sends it to the state?

11 A. They separately provide it to the state.

They

12 send a copy to the county, and then they send the

13 original on to the state department.

14 Q. So the annual reporting requirement that

we're

15 talking about actually takes place at a couple

different

16 levels separately. The county Office of Education

has

17 an obligation to provide an annual report that's

18 specific to what the county Office of Education is
19 doing, and each school district has to provide a
report
20 to the state Department of Education about what
they're
21 doing?
22 A. That's correct, yes.
23 Q. Are those -- is there any document --
excuse
24 me -- any document that pulls the information
together
25 from the various districts, either to make a
statewide
26 or a countywide summary?
27 A. It's my understanding that that's the
intent
28 that the state has. They intend -- this is a new
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42
1 design, this report that you have here. It's
brand-new
2 this year. And it's my understanding that it's
designed
3 in such a way in order to input this information
so
4 there can be an overview of what's happening
statewide.
5 But at the moment, I don't know of any
document
6 that summarizes the entire thing. There have been
7 various reports that have come out from what they
call
8 the Tobacco Education Oversight Committee, and
they have
9 kind of given a general overview of the status of
the
10 program at different times. It seems to me that
comes
11 out about once every two or three years.
12 Q. Are you referring to the report that the
13 Tobacco Education Oversight Committee makes to the
14 legislature?
15 A. Yes.
16 Q. And it includes some summary of
Department of
17 Education -- of activities that occur from Prop 99
18 Department of Education funds but also Prop 99
19 Department of Health funds?
20 A. Right, that's correct.
21 Q. Okay. Do you know of anything other than
that,
22 those TEOC reports?
23 A. That summarizes the statewide effort?
No, I
24 don't think so. Nothing comes to my mind at the
moment.
25 Q. Has there ever been an effort at the
county
26 level to take any of the these district type --
these
27 school districtwide reports and pull them together

into

28 a document that's for the county and that
summarizes

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1 what's happening countywide at schools?

2 A. No.

3 Q. You mentioned that the report has changed
over
4 the years, the report that has to be made by the
5 districts and by the county to the state. How has
it

6 changed?

7 A. Well, this year there is a section --
huge

8 section in here that looks at just about every
type of

9 activity that school districts may be involved in
that

10 more or less support the concept of prevention
education

11 but are not specific to tobacco in general. So it
looks

12 like a broader perspective of what this is all
about.

13 Q. When you say "prevention education," what
does

14 that mean? Is that all health education?

15 A. Well, yes, health in the broadest sense.

16 Q. Right.

17 A. Healthy kids. What do you do to really
create

18 healthy youngsters?

19 And so this is looking at some of those
20 activities, not only within the school during the

21 day, but after school and somehow connected with
the

22 school in general.

23 Q. So if I understand what you're saying,
the

24 report -- the annual report to the Department of

25 Education this year requires counties to provide

26 information that isn't just about tobacco and the
TUPE

27 program, but is about the broader Safe and
Drug-Free

28 Kids type program?

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1 A. Exactly, yes.

2 Q. Okay. Let's go through this a little
bit, this

3 form. This is a standard form that is to be used
by

4 every county and every district -- school district
--

5 A. That's --

6 Q. -- statewide?

7 A. That's my understanding, yes.
8 Q. In the past these forms were different in
that
9 they were more focused just on the tobacco
materials?
10 A. Exactly.
11 Q. Do these reports summarize the specific
12 educational materials that the district is using
13 anywhere? Either this one or even earlier ones,
but
14 let's start with this one.
15 A. They -- yes, in a sense. They can
reference --
16 there's an attachment to this that actually lists
the
17 classroom-based prevention resources.
18 Q. Okay. Is this the page -- it's pretty
far into
19 the document, maybe halfway into the document --
says
20 "Resources List for Classroom-Based Prevention
21 Resources" at the top?
22 A. That's correct.
23 Q. Okay.
24 A. And so school districts can actually
identify
25 these materials by numbers. They can just list
the
26 numbers of these various materials that they're
using,
27 and then they can -- I think they can write in
also
28 additional materials that may be district
developed or
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1 outside of the realm of this list.
2 Q. And the materials that are on this
resources
3 list, I notice it says "Textbooks" and then, after
that,
4 it has a lot of individual things other than
textbooks.
5 A. Right.
6 Q. Do the textbooks in the -- I take it,
then,
7 there are health education textbooks that are used
by
8 the Santa Clara County schools?
9 A. That's correct.
10 Q. Do you know whether those textbooks
include
11 sections on smoking-related issues?
12 A. Usually they do. I'm sure most of them
do,
13 yes.
14 Q. And do most of them in those sections
touch
15 upon issues relating to environmental tobacco
smoke as
16 well as primary tobacco smoke?

17 A. Usually that's a component of the tobacco
18 programs.
19 Q. Okay. And those textbooks are typically
used
20 by or given to which -- are these the students in
the
21 4th through 8th grade that are using these, or
they
22 could be any grades?
23 A. It could be any grades, but these reports
are
24 really specifically for Grades 4 through 8.
25 Q. Because that's the focus of the TUPE
program?
26 A. Right.
27 Q. As I understand that, so generally
speaking,
28 4th through 8th graders at Santa Clara County
schools
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1 are provided textbooks for health education -- is
it a
2 health education course or class that they have?
3 A. In grades K through 6, there is usually a
4 fairly comprehensive health education program
provided.
5 It's a health education course, class.
6 And when you get up into the middle
schools,
7 the health education programs become a little more
8 fragmented. And when you get into the high
schools,
9 they become very fragmented. And so at K-6, yes,
it's
10 generally a health education course.
11 Q. When you say they get fragmented at the
later
12 years, does that mean that there'll be a few
classes
13 rather than one whole course on the issue or that
14 there'll be sort of separate programming types of
events
15 rather than an ongoing course?
16 A. Generally, in the middle schools and high
17 schools, what students receive generally are the
18 mandated courses, like sexually transmitted
diseases,
19 HIV/AIDS and maybe a course on substance abuse.
And
20 there is not a full -- generally, it's not a full
21 course; it's something that's folded in with other
22 mandated requirements like driver's ed and CRP and
a
23 number of other things that are mandated for
students.
24 Q. And so one of those things, though, would
be,
25 you said, substance abuse. I take it that
underneath
26 that would be tobacco-related issues?

27 A. It's my sense, based on conversations
with
28 people in the middle schools and the high schools,
that
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1 tobacco is not as heavily addressed at those
levels as
2 it is at the K-6 grade level.
3 Q. Right. Do you know why it's more heavily
4 addressed at the K through 6th grade level?
5 A. I think it has to do with the structure
of the
6 schools. It's easier to provide those programs at
K-6,
7 or at least it has been in the past. It's getting
more
8 difficult now because of new mandates that
teachers are
9 required to do. And -- but traditionally, it has
been
10 easier to incorporate health into the K-6 level
because
11 you have one teacher doing a total program and it
fits
12 in nicely.

13 Q. I see. And does it also have to do with
14 something we were talking about earlier, about the
15 receptiveness of the children to learning about
that at
16 that point, that that's where you are most -- the
17 research suggests is the most effective time to
really
18 get their attention?

19 A. To some degree, although the research
does
20 support that it's very effective at Grades 6
through 8,
21 generally in the middle schools as well. And --
but
22 it's a little more complicated to deliver the
programs
23 at the K -- 6-8 and the 9-12 settings.
24 MR. GROSS: Off the record.
25 (Discussion off the record.)
26 MR. GROSS: Q. All right. I'll want to

come
27 back at some point a little bit more to the
textbooks
28 and the programming. We can deal with that a
little bit

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1 at another point. Let's get through this
reporting
2 stuff for now.
3 So they would report about what textbooks
4 they're using. And what are all these other
materials

5 listed, 2 through 33? What types of materials are
6 those?
7 A. These are resources that have -- that are
8 developed by a variety of different entities and
are
9 being advocated to schools by publishers. And
some of
10 them are research-based projects, such as Project
Alert,
11 No. 7, and they have been shown to be very
effective
12 when they're delivered according to the design of
the
13 program.

14 Q. Are these 33 that are listed here --
actually,
15 I guess it goes on to the second page, but the
second
16 page is about violence and harassment. So I guess
these
17 33, are they materials that are particularly
heavily
18 used? Is that why they're on this list?

19 A. Yes. These are materials that actually
have
20 been developed since Proposition 99 was passed.
This is
21 really targeting specifically tobacco education.
And
22 they are very well used. I mean, they're used by
most
23 of the classrooms out there.

24 Q. Would you be able to tell me -- strike
that.
25 Do some of these resources contain
information
26 about ETS?

27 A. I'm sure they do, yes.

28 Q. Would you be able to identify specific
ones

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you
1 based on their titles, or is that not something
2 could easily do?

3 A. I would imagine that "Tobacco Free!
4 Tobacco-Use Prevention Lessons" that are listed
down
5 toward the bottom, in particular.

6 Q. Where is that, what number?

7 A. Number 27, 28.

8 Q. Okay.

9 A. I know No. 30, the Minnesota Smoking
Prevention
10 Program, I'm sure touches on environmental tobacco
11 issues.

12 Q. Any others?

13 A. I'm sure that there are others here. I
can't
14 be a hundred percent certain.
15 Many of these programs focus on just

skill
16 development and social skill development and
17 decision-making processes and communication and
those
18 types of things.
19 Q. Right. So -- and so those that are on
this
20 list -- strike that.
21 Do you know whether Santa Clara County
schools
22 have used the resources that are on this list,
generally
23 speaking?
24 A. Yes, yes. Many of the schools use the
25 resources that are here.
26 Q. And did they use the ones that are
27 environmental tobacco smoke -- that touch on
28 environmental tobacco smoke that you identified?
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1 A. I'm not sure that they use these
specifically,
2 but I'm sure that they use some of these that do
touch
3 on environmental tobacco smoke.
4 Q. And they might even use others that are
not on
5 this list but that also touch on environmental
tobacco
6 smoke?
7 A. Yes.
8 Q. Now, is there anything else in this
report that
9 provides a summary of sort of the events, programs
and
10 courses that are being undertaken by -- at the
district
11 level?
12 A. Well, on pages 7 through probably almost
14,
13 there's -- they provide a list of generally
whether or
14 not the issue is being addressed at what grade
levels.
15 Q. I see.
16 A. And then what kind of materials are being
used.
17 That's on page -- in the left-hand column.
18 And then on pages 10 on, they talk about
19 various activities.
20 Q. So these are events --
21 A. Right.
22 Q. -- is that right?
23 A. That's right. Well, yes, uh-huh,
activities
24 that the kids are involved in.
25 Q. Like the Great American Smokeout, for
example?
26 A. Exactly. Friday Night Live.
27 Q. And this goes on for a couple of pages.
Are

28 these events that are listed on pages 10 -- looks like

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1 it's through 13, or "Non-classroom Resources and
2 Activities," as it's specifically titled here,
events or
3 activities that take place in the Santa Clara
County
4 schools?

5 A. Yes.

6 Q. All of them or just some of them?

7 A. They're different. They vary from
district to
8 district. But some percentage of them take place
in all
9 schools.

10 Q. Okay. Let me make sure I understand
that. So

11 all schools do some of these?

12 A. Exactly.

13 Q. But are all of these -- if you took all
of the
14 schools, could you be sure that all of these are
done at
15 one school or another?

16 A. No, not necessarily. I mean, I'm not
certain

17 that every school -- I'm not even sure how

involved
18 schools are in this county in Friday Night Live,
for

19 instance. I know that Red Ribbon Week is a very
popular

20 week in this county, and practically every
school's

21 involved in that.

22 Q. What's Red Ribbon Week?

23 A. It's an entire week in October that's
devoted

24 to substance abuse, and it's a national program.
And

25 it's a time when everyone in the schools and the

abuse
26 communities become very much aware of substance

27 and do a lot of activities and programs and
education

28 around the topic.

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1 Q. So in the schools, there will be a whole
bunch
2 of different events scheduled in that week --

3 A. Exactly.

4 Q. -- in October?

5 A. Yeah. Noon events, afterschool events,
special

6 assemblies, classroom lessons -- the whole thing.

7 Q. Is there a tobacco component to that?

8 A. Yes, there's a tobacco component.
9 Q. What is the tobacco component? Can it be
10 described generally?
11 A. Well, it varies, again, but there's --
they do
12 additional lessons during the week of Red Ribbon
Week,
13 and they make sure that tobacco is incorporated in
that
14 whole effort throughout the week. They have
special
15 groups that come in that focus entirely on tobacco
16 education that do special assemblies and
entertainment.
17 And so it's a whole array of things.
18 Q. I see. And is that -- I don't know if I
have
19 your exact language, but you were saying that a
lot
20 of -- this is a big -- a lot of the school
districts and
21 schools participate in this program.
22 A. Right.
23 Q. Is it done K through 12, or is it certain
24 grades, or does it vary?
25 A. It's much more popular K through 8. And
there
26 are some high schools that become involved as
well, but
27 not to the same degree as K-8.
28 Q. How many years has the Red Ribbon Week
program
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1 gone on?
2 A. Oh, probably -- let's see. I know for at
least
3 ten years.
4 Q. Has it always had a tobacco component,
tobacco
5 education component?
6 A. I don't think so. I think that grew out
of the
7 tobacco education focus and became a stronger
component.
8 I can't say that it never had a tobacco component.
I
9 don't really know.
10 Q. The idea was more prominent in more
recent
11 years?
12 A. Exactly.
13 Q. The last five years roughly, or is that
--
14 A. Probably, yes.
15 Q. And I'm assuming that like, as with
elsewhere
16 in our discussions, the tobacco component
comprises all
17 manner of tobacco-related issues, including
18 environmental tobacco smoke-related issues?

19 A. Yes, I'm sure it does.
20 Q. And Red Ribbon Week -- I know that it
varies
21 from place to place, but -- typically involves, I
think
22 you mentioned, assemblies, outside speakers?
23 A. Um-hum.
24 Q. Is that -- I'm sorry. You have to answer
"yes"
25 or "no."
26 A. Yes, yes. Special classroom lessons,
pledges.
27 Kids actually pledge to be drug-free. An array of
28 activities.
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1 Q. Is that a Prop 99-funded program, or does
it
2 come from the federal funds, or do you know?
3 A. Red Ribbon Week?
4 Q. Yes.
5 A. It's incorporated into the whole teaching
6 process. And I'm sure that some of the materials
that
7 are purchased for the week use tobacco funds to
purchase
8 some of the materials.
9 Q. Okay. What are some of the other major
events
10 that have a tobacco-related component that take
place in
11 the Santa Clara County schools?
12 A. The American Smokeout is another fairly
popular
13 one in November.
14 Q. And what does that entail?
15 A. It's really -- that's usually a bit more
16 popular at the middle schools and, to some degree,
at
17 the high schools. And it's getting kids to
pledge, if
18 they are smokers, to at least not smoke for one
full
19 day.
20 Q. Right.
21 A. And at the elementary levels, I'm not
quite
22 sure how they use the Great American Smokeout. I
think
23 it's just an opportunity to share information and
24 education to kids about the hazards of smoking.
25 Q. Do they share information and education
with
26 the middle school and high school students in
addition
27 to the pledge component?
28 A. If they participate in the American
Smokeout
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55

1 activity, yes.

every

2 Q. So this is a one-day event in November
3 year?

4 A. Usually, yes.

5 Q. It's actually a nationwide thing; right?

6 A. Yes, right.

going on?

7 Q. And do you know how long that's been

8 Has it been going on since the whole time the
program --

9 the Prop 99 program's been in effect?

Prop 99.

10 A. Yes. I think it was in place prior to

Clara

11 Q. So at a typical middle school in Santa

American

12 County, what would typically happen on Great

13 Smokeout day?

is

14 A. Well, the teachers would probably raise
15 awareness of the students in the classroom that it

as to

16 American Smokeout day, maybe provide some lesson

kids to

17 why it's occurring, and then if -- and encourage

18 become actively involved.

it,

19 Sometimes there are rewards attached to

see if

20 just getting the kids to challenge themselves to

and

21 they can abstain from cigarettes for the full day;

kind of

22 if they're successful at it, then there's some

23 reward at the end of the day.

speakers

24 Q. Okay. Is there a -- are there outside

25 for this, too, like with the other program?

26 A. Occasionally, yes.

27 Q. Assemblies?

as

28 A. Occasionally. But it's not -- it's not

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1 popular an event as the Red Ribbon Week.

guess what

2 Q. Is that because its focus -- well, I

3 do you mean by "not as popular"?

-- it's

4 A. Because the focus is really to get kids

really

5 really for smokers, American Smokeout day. It's

to

6 to raise awareness about smoking, but get smokers

7 abstain from smoking for the full day.

8 Q. I see.

kids

9 A. And generally, we don't like to say the

10 are smoking, to begin with, so . . .

11 Q. So it's just more focused --
12 A. Exactly.
13 Q. -- than the others?
14 A. It's just an opportunity to do some more
15 tobacco education.
16 Q. I don't know if looking at this list
helps you,
17 but are there other tobacco-related events that
come up
18 like those on an annual basis that are fairly
widespread
19 within the Santa Clara County schools?
20 A. Those are the most popular ones. There
-- the
21 Tobacco Education Coalition tries to have a youth
22 summit, and they try to target several hundred
kids to
23 attend their youth summit, and I think that's done
on a
24 fairly regular basis.
25 Q. So that's a countywide youth summit?
26 A. Yes.
27 Q. There's also a statewide youth summit,
isn't
28 there?
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1 A. Right.
2 Q. And that happens every -- does that
happen
3 every year?
4 A. I think it's been going on for -- yeah,
every
5 year for some period of time. I'm not as familiar
with
6 that, but I know that that comes up. There's
usually
7 information that passes across my desk about the
effort.
8 Q. Is that something that's -- you mentioned
it's
9 from the coalition. So it's sort of a joint
program
10 between the Department of Health and the -- or,
rather,
11 the county Health Department and the county Office
of
12 Education?
13 A. Well, generally. We try to support them,
but
14 actually, they have to go to each school, since it
15 involves kids during the school day, and they have
to
16 work for transportation. So they generally have
to work
17 directly with the school site in order to organize
it.
18 It's not an easily organized type of thing.
19 Q. So what happens? They take kids from
school
20 and take them to some off-site place and have a

summit,
21 so to speak?
22 A. Right, retreat kind of thing.
23 Q. Is it a one-day thing?
24 A. Usually, yeah.
25 Q. And what topics are typically addressed
there?
26 A. I've never been actively a part of that,
but
27 I'm sure that it's in the same realm as these
kinds of
28 things, a combination of skill development and
awareness
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1 and education.
2 Q. And again, it would be awareness and
education
3 both of tobacco generally and ETS probably?
4 A. Right.
5 Q. And how do they select the children who
are
6 going to be involved in that out of the schools?
7 A. I think that they really -- they actively
seek
8 to involve anyone that's desiring to be a part of
it.
9 So if they have to have parental permission, so a
10 student that has an interest and can go through
all the
11 hoops to participate would be available to
participate.
12 Q. And you think it's a few hundred students
--
13 A. Yes.
14 Q. -- from the county each year?
15 A. If that many. I'm sure there's not more
than a
16 hundred kids that participate.
17 Q. I see. Is there any age group of the
kids that
18 they focus on?
19 A. I think that they focused on the middle
schools
20 and high schools.
21 Q. Okay. Do you know about this state youth
22 summit?
23 A. I know of it, but that's basically it.
24 Q. And is it a similar thing to the county
youth
25 summit, but at the state level and perhaps -- I
mean, I
26 would assume everyone has to go to travel further
to get
27 there, but otherwise it's the same?
28 A. Yes, I'm sure it is. And that's as -- my
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1 understanding, that's also handled by the Tobacco

2 Control Coalition groups, Public Health
Department.
3 Q. You mean from this county's perspective,
that's
4 where it's handled?
5 A. Right.
6 Q. And I take it you wouldn't know -- you
wouldn't
7 have a good sense for the number of people or
students
8 that are involved in that one?
9 A. No.
10 Q. Do you know what the Just Say No Club is?
Is
11 that something that exists in Santa Clara County?
It's
12 on page 10.
13 A. I'm not familiar with any Just Say No
Clubs.
14 That would be at a site level. And there are a
variety
15 of student clubs that exist. It's a possibility
it
16 could be out there, but I don't know.
17 Q. Okay. Do you know what a Just Say No
Club
18 would be if it existed here?
19 A. I'm sure this grew out of Nancy Reagan's
Just
20 Say No effort, and --
21 Q. So it's some sort of a drug -- antidrug
--
22 A. Right, right.
23 Q. There's identified on page 10 also other
clubs
24 prevention clubs. Do you know about prevention
clubs
25 that exist at the district or school level in
26 Santa Clara County?
27 A. There are -- there's a real effort to
organize
28 students in groups, support groups, where they can
share
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1 information and communicate about different
issues, and
2 generally those are called prevention kinds of
efforts,
3 prevention clubs. I hear discussions from people
about
4 different clubs on campuses that are focused on
those
5 kinds of things, but I don't know the specifics.
6 Q. Do you know if any of them focus on
tobacco
7 issues? Are there any such prevention groups in
8 Santa Clara County schools?
9 A. They do organize cessation programs and
kids
10 that are trying to quit, yes, and work with them
11 individually and in groups.

12 Q. So that'd sort of be like, I guess, a
club that

13 is a cessation club? Is that what you're --

14 A. Right. They would work with them for a
15 specified period of time, yeah.

16 Q. Do you know whether those students are
provided
17 information about environmental tobacco smoke as
part of
18 cessation programs?

19 A. I'm sure that it's touched on. That
would be
20 my speculation, that it's touched on.

21 Q. One of the things that I -- we had a
deposition
22 a while back of a media person who had indicated
-- you
23 know, involved in the Prop 99 media campaign who
had
24 indicated there was research to suggest that for
25 children, a strong -- children are particularly
26 receptive to information about the effect of
27 environmental tobacco smoke on people around them
as a

28 way of convincing the children not to smoke.

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1 A. Um-hum.

2 Q. Is that anything you've ever heard of?

3 A. I think there's a general awareness of
that.

4 Q. Yeah. I probably didn't ask the question
very
5 clearly. I guess -- let me back up.

6 I guess what I'm really asking is: Do
you know
7 whether the schools try to use information about
8 environmental tobacco smoke as a way of reaching
kids
9 about why they shouldn't smoke; in other words,
that
10 they're going to harm people around them? Do you
know

11 if that's done?

12 A. I honestly don't know if that's done,
other
13 than in parenting programs. I know that we have a
lot
14 of teen parents, and I know that in those programs
they
15 really encourage young parents not to smoke around
their
16 children and -- because it leads to all kinds of
issues
17 with the kids. But beyond that, I'm sure that
it's

18 touched on, but I can't --

19 Q. You don't know if it's a specific
strategy?

20 A. Exactly.

21 Q. For the teen parenting programs, does

every

22 school district have a teen parenting program?

23 A. No. Well, not every school district.

Most of

24 the -- most of the high schools do and -- well,
25 actually, middle schools are moving toward it too,

which

26 is kind of distressing. So most high schools have

a

27 teen parent program, either a centrally located

one that

28 they refer all their teen parents to or one on

their

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1 individual campuses, depending on the size of the
2 campus, like Independence High, for instance,

which has

3 4,000 students.

4 Q. Do the teen parent programs only apply

to, I

5 guess, pregnant teens and teens who already have
6 children?

7 A. Parenting teens, yes, yes. Teens who are
8 parents.

9 Q. The reason -- it's not -- let me back up.
10 Anyway, in those programs, there's

information

11 provided to the teen parents about the effects of
12 environmental tobacco smoke on infants and young
13 children?

14 A. Correct. And also on pregnant --

15 Q. Fetuses?

16 A. Fetuses, yeah.

17 Q. Okay. There's an entry here for dramatic
18 prevention-focused student presentations on page

10.

19 A. Um-hum.

20 Q. Do those exist in Santa Clara County?

21 A. Yes. There have been a number of school

sites

22 which have actively gotten youngsters into the

drama

23 play development, where they develop -- they write

the

24 script and they actually act out the play.

25 And then sometimes they will present

those

26 plays -- if they're developed in a high school,

they'll

27 present them to a younger group, or a middle

school will

28 present it at the elementary group. So it's a

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1 peer-to-peer kind of program. It's pretty
effective.

2 Q. Do you know whether there have been any

of

3 those that relate to tobacco issues?
4 A. Yes, they do. Yes, they have been very
tobacco
5 specific in some instances because there's been
funding
6 to support that kind of thing.
7 Q. Prop 99 funding?
8 A. Prop 99 funding.
9 Q. Have those been going on for a long
period --
10 for the entire period of the Prop 99 program, or
is it a
11 more recent phenomenon?
12 A. I think probably in the past five years
or so,
13 when it's become -- there's research that supports
14 peer-to-peer teaching, they've become more
prevalent.
15 Q. And so I understand, basically, for
example, a
16 group of high school students at a given high
school
17 would get together, write a dramatic presentation
or a
18 play of some sort that has issues about the
dangers of
19 tobacco smoke, and would then put that play on for
20 younger children?
21 A. Yes. Or just do it as a project for the
class,
22 the drama class that they're a part of. Both of
those.
23 Q. And those -- like the other things we've
talked
24 about, would those presentations tend to address
25 environmental tobacco smoke as well as other
tobacco
26 smoke-related health issues?
27 A. I'm sure they find some ways to
incorporate
28 environmental tobacco smoke issues in them.
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1 Q. Okay. Do you have any sense of -- would
you
2 have any way to quantify the number or frequency
of
3 these dramatic presentations?
4 A. Not really. I know that they're becoming
more.
5 Especially as an outgrowth of the competitive
grant
6 process for Grades 9 through 12, there's more of
them
7 that are being developed and used.
8 Q. Okay. I see prevention-focused
assemblies with
9 speakers. Is that something that's done in Santa
Clara
10 County outside of in the two circumstances where
we

11 already discussed it, which -- well, yeah, the two
12 circumstances we already discussed it, which are
Red
13 Ribbon Week and the Great American Smokeout?
14 A. Yes. They -- well, not to the same
degree. I
15 mean, Red Ribbon Week is the primo time for
assemblies
16 and speakers and that type of thing. But there
are
17 districts that bring in speakers as a component of
their
18 whole tobacco program.
19 Q. So, yeah, not during Red Ribbon Week, but
some
20 other week they might have an assembly speaker who
comes
21 in and speaks about tobacco smoke issues?
22 A. Exactly, yes. The heart man is very
popular, a
23 person who actually brings his own heart in in a
jar and
24 shows it to kids.
25 Q. I take it he had a heart transplant?
26 A. Right, right.
27 Q. Okay.
28 A. And there's a number of them that are out
there

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1 that come into the classrooms and talk.
2 Q. So the heart man comes in and gives a
lecture
3 about the harms of tobacco smoke and, I assume,
also
4 environmental tobacco smoke?
5 A. Well, I'm not sure how much environmental
6 tobacco smoke enters into those discussions. It's
7 usually the impact that smoking had on them
personally.
8 Q. Right.
9 A. And on their own bodies and their health
and
10 well-being. So . . .
11 Q. Are there other well-known programs like
that
12 that sort of stand out as the main assembly-type
13 programs that are tobacco related?
14 A. There's the gentleman with the
laryngectomy.
15 Q. Um-hum.
16 A. And he -- he's quite popular.
17 And there's actually been a number of
groups
18 that have been developed that -- juggling acts and
19 circus acts and those kinds of things, that
incorporate
20 a tobacco theme into their delivery process, and
they're
21 much more popular at the elementary levels.
22 Q. How do they do that?

23 A. That's a good question. I've never seen
them,
24 so I'd like to know myself. But I'm assured by
various
25 people at the district level that they're
wonderful, and
26 they do provide a great drug-free and no-smoking
27 message. And so there's a variety of things that
are
28 out there.

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1 Q. I see. Would you say that most of the
schools
2 in Santa Clara County make use of those sorts of
3 assemblies to address smoking-related issues, say,
on an
4 annual basis?

5 A. There's been a great deal of research
provided
6 that indicates that assemblies are certainly not
--
7 research based -- to be shown effective.

Assemblies are
8 not an effective delivery process.
9 And so for a while, I think they were
using a
10 great many of assemblies; but as the research has
come
11 forward, there's been a decrease in assemblies
because
12 they tend to be expensive. And so there's been a
13 backing away from the assemblies.

14 Q. In favor of things like Red Ribbon Week
where
15 you have a whole week?
16 A. Exactly, and it's connected with a whole
17 classroom program.

18 Q. So more of a fully integrated approach?
19 A. Exactly.
20 Q. I see. When you say "effective," I take
it you
21 mean -- you measure effectiveness by the degree to
which
22 behavior is changed?

23 A. Yes.
24 Q. You're not measuring it, for example, by
just
25 whether a person who receives the information's
26 knowledge -- becomes knowledgeable?
27 A. Right, yes. Measuring is a very
difficult
28 thing. So . . .

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1 Q. But I guess what I'm getting at is, I
would
2 assume an assembly could be -- I don't know.
Maybe you

3 certainly would be more familiar with the research
than
4 I, but -- an assembly could be an effective way of
just
5 getting the information out so that somebody knows
it,
6 but it might not necessarily change their
behavior.

7 A. That's correct, yes. In fact, that's
what the
8 research indicates, that unless it's blended in
with a
9 more extensive comprehensive program, it has no
effect
10 whatsoever.

11 Q. On behavior?

12 A. Right, on behavior.

13 Q. Cross-age teaching is an entry on page 11
here.

14 What's that?

15 A. That's basically what I was referring to
16 earlier with the peer-to-peer program, where high
school
17 kids will go in and deliver a program to
elementary
18 school kids.

19 Q. So, in other words, that happens both in
the
20 context of dramatic presentations, but also could
just
21 be somebody who's an 11th grader going and
speaking to a
22 class of 4th graders?

23 A. Exactly, yes.

24 Q. And would those -- did those exists --
did

25 those programs occur in Santa Clara County?

26 A. To a limited degree, most of these
programs, I
27 think, occur.

28 Q. Most of the ones listed on the pages --

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1 A. Right, right.

2 Q. Do those programs involve tobacco smoke?

3 A. They -- they could. I can't -- I can't
confirm
4 that.

5 Q. You don't know of a specific one that
does
6 that?

7 A. Right.

8 Q. How about this one on page 11, "Sustained
9 mentoring programs; supported with reinforcement
of

10 appropriate behavior"?

11 A. Right. That's a research-based piece of
12 information there that indicates that when you
have a
13 child that's being mentored, especially by a
caring

14 adult who is continually monitoring the child's
behavior
15 and really being critical and analytical of the
behavior
16 and giving him supporting information, that it has
quite
17 an impact toward more appropriate behavior.

18 Q. And do sustained mentoring programs occur
in
19 Santa Clara County schools with respect to tobacco
or
20 that involve tobacco?

21 A. Usually the programs are very broad, and
22 tobacco is certainly a component of that, and --
but the
23 programs themselves are -- there are not that many
of
24 them out there. Even though we know that it
works, it's
25 difficult finding adults and aligning them with
26 youngsters with needs. And so it's a challenging
27 program to implement.

28 Q. There are some mentoring programs,
though, that

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1 exist in some of the schools?

2 A. Yes, I'm sure there are.

3 Q. Are they in sort of the more at-risk
schools?

4 A. Generally, they are targeted with at-risk
5 students that are in the regular schools.

6 Q. Okay.

7 A. By the time kids get into the at-risk
schools,

8 they're needing much more individual attention.

9 Q. I see one entry here on page 11 is family
10 counseling. Does Santa Clara County have family
11 counseling programs?

12 A. There are many of the schools that offer
family
13 counseling programs, yes.

14 Q. Do those involve tobacco?

15 A. I'm sure that if tobacco is an issue --
well, I

16 have to say I don't really know. Usually family
17 counseling involves the dynamics of the family

itself
18 and maybe relationships with the youngsters, and I
think

19 that's the primary focus, but sometimes there
could be
20 substance abuses involved.

21 Q. So it could come up in the context, but
it

22 wouldn't -- it wouldn't specifically be family
23 counseling about tobacco. You'd have family
counseling

24 about whatever issues exist between the parents
and the

25 children, and one of them could be tobacco?

26 A. Exactly.

27 Q. "Parent training for child behavior
28 management," that's on page 12.

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1 A. Um-hum.

2 Q. Are there programs that address that?

3 A. Yes, there are.

4 Q. Do those programs have a tobacco
component to
keep
smoke?

7 A. I don't --

8 Q. Being exposed to smoke?

9 A. I don't know. Usually behavior is pretty
much
substance

10 out of control, and it's really looking at

11 out-of-control behavior, which could include

12 abuse and tobacco.

13 Q. What's Yellow Ribbon Week?

14 A. I think that's a new one where the focus
is on
month,

15 violence. It's -- I mean, pick your color of the

16 you know.

17 Q. Right. On page 13 there's an entry
saying
brochures,

18 "Information resources to parents: e.g.,

19 newsletters, video."

20 Do the Santa Clara County schools provide
21 tobacco-related information resources to parents?

22 A. Yes. Many of the schools have resource
centers
and
centers.

23 with information regarding all kinds of issues,

24 tobacco is a component of that in many of their

25 Q. And these are centers that the parents
can come
how it

26 into to get brochures and information? Is that

27 works?

28 A. That's right. Or sometimes the
information is

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1 actually sent out to them.

2 Q. By mail?

3 A. By mail, yeah.

4 Q. And that would include information about
5 tobacco?

6 A. It could, yes.

7 Q. Did you say most districts have that?

8 A. Many of them do.

9 Q. Is that at the district level or the

school
10 level?
11 A. Many -- it's school -- it's a
combination,
12 depending on the size of the district. Some
school
13 sites have resource centers that are available to
14 parents.
15 Q. Do you know if those resource centers
contain
16 materials that provide information to parents
about not
17 exposing their own children to the parent's
tobacco
18 smoke?
19 A. I can't confirm that, but I would assume
they
20 do.
21 Q. The next entry is sort of related to
that, I
22 take it, "Parent meeting, training or class
focused on
23 prevention or intervention"?
24 A. Right.
25 Q. I take it that those are basically the
parental
26 training-type classes that we were talking about
27 earlier?
28 A. Right.
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1 Q. Can you describe for me generally what
sorts of
2 parental training classes exist in Santa Clara
County
3 that would relate to tobacco or have that as a
4 component?
5 A. No, I can't, honestly. I don't -- I just
6 don't -- I don't know.
7 Q. Towards the bottom it says, "One-time
activity
8 or event to encourage parent participation." Then
it
9 says one of them is the Smokeout, which I think we
10 already discussed.
11 A. Um-hum.
12 Q. But it also mentions health fairs.
13 A. Um-hum.
14 Q. Are there health fairs that are conducted
in
15 the Santa Clara County schools?
16 A. Yes, many of the schools have annual
health
17 fairs.
18 Q. And has that been in existence since the
last
19 decade?
20 A. Yes. And they set up booths, and they
bring in
21 speakers, and they have food, and it's quite a
full-day

22 event.
23 Q. This is another kind of one-day event
that
24 might exist?
25 A. Right.
26 Q. And those health fairs would include,
27 typically, tobacco-related issues as well as all
sorts
28 of other issues?
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1 A. Right.
2 Q. Just so we're clear, tobacco-related
issues
3 would include environmental tobacco smoke issues,
most
4 likely?
5 A. I'm assuming, yes.
6 Q. Would you say that most of the schools in
7 Santa Clara County have annual health fairs or,
you
8 know, more than half, less than half? Could you
9 estimate?
10 A. It would be difficult to estimate, but I
do
11 know that a good percentage of them -- I would be
12 reluctant to say 50 percent, but a good many of
them
13 have health fairs.
14 Q. Right, okay. Just, I mean, it's too hard
to
15 pick an actual percentage?
16 A. Exactly, yes.
17 Q. That would sort of go from knowledgeable
18 estimate over to speculation?
19 A. Right.
20 Q. Okay. Do you know whether the health
fairs
21 tend to occur with respect to certain grade levels
more
22 than others?
23 A. My assumption is that they're much more
popular
24 in K-6, K-8 grades than they would be in high
schools.
25 Q. But I guess, just going back to the form
for a
26 minute, what would happen -- if I really wanted to
get a
27 specific piece of information on something like
that, I
28 would look at a form like this that was submitted
to the
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1 state, it would check off health fair, it would
check
2 off the box for tobacco, and it would then check
off

3 these different columns that refer to elementary
4 schools, middle grades or high school grades?
5 A. Yes.
6 Q. And that's how I would determine exactly
where
7 those are taking place?
8 A. Yes.
9 Q. I notice at the top of this chart under
each of
10 those entries, "Elementary Grades," "Middle
Grades" and
11 "High School Grades" it says "Used by at least
12 50 percent of schools."
13 Is it your understanding that in order to
check
14 the box, you have to have more than 50 percent of
the
15 schools doing it?
16 A. That's correct. And so, again, you have
17 some -- even if when you looked at all of this
data, you
18 have some inkling of what's going on but you don't
19 have -- there's still a lot of things happening
that are
20 not a part of this 50 percent.
21 Q. What you are saying is this form only
picks up
22 the things where more than 50 percent of the
schools are
23 doing it. There could be other things where 25
percent
24 of the schools are doing it and that wouldn't end
up
25 with a check in the box.
26 A. Exactly.
27 Q. Correct?
28 A. Yes.

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1 Q. And so that means, in a way, the form
kind of
2 undercounts what the total activities are?
3 A. Exactly.
4 Q. Have the forms from earlier years had
this same
5 50 percent limit?
6 A. No. This is brand-new. This is an
entirely
7 new process. We didn't even have anything like
this
8 from earlier years.
9 Q. You know, just going back for a minute to
the
10 information resources to parents category that we
talked
11 about before and you mentioned the parental and
resource
12 centers at some schools, do you know whether those
13 include both printed materials and video and audio
14 materials?
15 A. Usually they do, both videos and

literature.

16 Q. So they would include like a videotape
that you
17 could put into a VCR that would provide
information

18 about, well, for example, tobacco smoke issues?

19 A. Exactly, yes.

20 Q. Can they watch them there, or did they
check
21 them out?

22 A. They can do both usually.

23 Q. At the bottom -- later on in the form
there's
24 some 1998-99 HKPO contact list. Is that a list of
the

25 contacts for each of the county Office of
Education

26 tobacco coordinators?

27 A. Yes.

28 Q. The last page of this document refers to
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1 Tobacco-Use Prevention Education regional
assignments.

2 A. Um-hum.

3 Q. What's that?

4 A. Those are people who work out of the
state

5 Department of Education that are the primary
contacts
6 for each of these regions.

7 Q. I see.

8 A. And for our region, South Bay/Delta,
would be

9 Myra Young.

10 Q. But these were not regional people like
there
11 used to be? These are people in Sacramento that
have

12 regional --

13 A. Right, that's correct.

14 Q. -- responsibilities?

15 Okay. Do you want to take a break for
lunch
16 now? Is this a good time, or do you want to keep
going?

17 (Luncheon recess taken at 12:06 p.m.)

18 --oOo--

19 AFTERNOON SESSION

1:10 P.M.

20 MR. GROSS: Can we go back on the record.
21 All right. When we left, we were talking

about

22 Exhibit No. 444, which is the annual report for --
well,

23 it's the form, the 1998-99 annual report form that
the
24 districts are using to report to the state their
25 programs.

26 I guess what I want to do now actually is
show

27 you another report from a little bit earlier that
was in
28 the documents that you produced to -- you produced
in
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1 the past pursuant to a public records request. If
you
2 could mark this next in order.
3 (Whereupon, Defendants' Exhibit 445 was
marked
4 for identification.)
5 MR. GROSS: Q. I've had placed in front
of you
6 Exhibit No. 445, which is a document that you had
7 produced to us earlier, not in this case but in
response
8 to a public records request.
9 Is that document familiar to you?
10 A. Yes. This is the earlier report form.
11 Q. And so this is the form that was used in
around
12 1991-'92 for the school districts to report their
13 activities --
14 A. Right, um-hum.
15 Q. -- to the state?
16 These two forms are different, clearly.

Have
17 there been various iterations between these two
where
18 the form changed as well, or was it this form for
a
19 period of time and then the new form?
20 A. It was this form for a period of time. I
21 believe there was one other and now this current
form.
22 Q. Okay. And where -- are those forms --
does
23 this office keep copies of the district reports
that go
24 on these forms?
25 A. The state Department of Ed encourages
districts
26 to send the county Office of Education a copy of
27 everything. Some districts send them religiously,
and
28 some districts do not. It's not mandated that
they have

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1 to send them. So sometimes I get them, sometimes
I
2 don't.
3 Q. Are those all in sort of one place that
you
4 keep all whatever -- the forms that you do get
that are
5 the annual reports?
6 A. Yes, generally -- well, the current ones

are,
7 yes, they're in one set of files.
8 Q. Okay. And for the period -- "the current
9 ones," you mean is that the ones for the 1997-98
or
10 1998-99 reporting period?
11 A. It's -- this one that we just reviewed is
the
12 current year, '99/2000, '98-99.
13 Q. Right. In the year 2000, they probably
do a
14 '98-99 report.
15 A. Right.
16 Q. Okay. What about the ones from earlier
than
17 that, from earlier years?
18 A. As I recall, it's only been in the past
few
19 years that the state department has encouraged
districts
20 to send us copies of everything. And so there's
kind of
21 a mixture. I have some reports, but not all.
22 Q. I see. If we wanted to get the most
23 comprehensive grouping, we would want to go to the
state
24 Department of Education; is that right?
25 A. That's correct, because the state
department
26 actually allocates funding based on the reports
being
27 submitted. They hold up funding until the reports
are
28 turned into them. And so they have some leverage.
And
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1 then after the reports are complete, they release
the
2 last 40 percent, I think, or 20 percent of the
funds.
3 Q. Is there any kind of certification that's
4 typically made on these forms by the district to
say
5 that the information presented is accurate?
6 A. No. I think the assumption is that since
it's
7 being presented, it's as accurate as they can make
it.
8 Q. The only reason I ask is because there is
such
9 a certification on the similar forms that the
Department
10 of Health does. I'm just curious.
11 A. H'm, interesting.
12 MR. GROSS: So can we go off the record
for a
13 minute.
14 (Discussion off the record.)
15 MR. GROSS: Back on the record.
16 Could you mark this as exhibit next in

order.
marked 17 (Whereupon, Defendants' Exhibit 446 was
18 for identification.)
19 MR. GROSS: Q. Okay. I've put before
you 20 Exhibit No. 446, which is also among the documents
that 21 were produced pursuant to a public records request
from 22 your office a while back.
23 A. Are you sure this came from our office?
24 Q. Well, I think so. The control number at
the 25 bottom is one that we put on to track the
documents that 26 we received from various places.
27 A. H'm.
28 Q. I guess my -- it sounds like you're not
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1 familiar with the document.
2 A. No. I don't recall seeing it before.
3 Q. Have you ever heard of this essay contest
that 4 this refers to, where students K through 8 write a
5 letter or essay or poem about smoking-related
issues, 6 and if they win, they get to go meet the United
States 7 surgeon general?
8 A. No, I haven't heard of this one
specifically. 9 I know there have been a number of contests, but I
don't 10 recall the specifics of this one.
11 Q. What contests do you recall?
12 A. There have been -- sponsored by the
Tobacco 13 Control Coalition, I think, in association with
the Lung 14 Association or Heart Association, there have been
poster 15 contests in which students design posters, and if
theirs 16 is selected, it's published and put into buses and
17 public arenas.
18 Q. And those are posters about
tobacco-related 19 issues, including, potentially, environmental
tobacco 20 smoke issues?
21 A. Exactly, yes.
22 Q. Okay.
23 A. And writing activities where kids write
essays 24 and things, and the best ones are published
somehow, and 25 maybe in the local school paper.
26 So there's -- and particularly poster
contests,

27 poster contests seem to be very, very popular.
And
28 they've been used by a number of agencies, that
the
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81
1 Tobacco Control Coalition contracts with multiple
2 community-based agencies. These agencies work
with the
3 schools. And so many of the agencies also help to
4 support the Tobacco Education Program in
connection with
5 the school system. And so many of them have used
poster
6 contests to try to fulfill the responsibility of
7 educating the students from their perspective.
8 Q. Okay. So I guess, then, contests would
be
9 another category of types of programs or events
that are
10 educationally related that are undertaken in Santa
Clara
11 County?
12 A. Yes, yes.
13 MR. GROSS: The thing now I want to turn
--
14 we've been speaking quite a bit about events and
15 programs. I think I now want to turn to
materials,
16 warning materials a little bit.
17 Why don't we mark this as exhibit next in
18 order.
19 (Whereupon, Defendants' Exhibit 447 was
marked
20 for identification.)
21 MR. GROSS: Q. I've had placed before
you
22 Exhibit No. 447. Perhaps you should take a minute
to
23 look at that.
24 A. Um-hum. Looks like it came from -- yeah,
it
25 did, the Healthy Kids Resource Center.
26 Q. So is this a catalog from the Healthy
Kids
27 Resource Center of tobacco educational materials
that
28 are available to counties, county school
districts?
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82
1 A. Yes, it is.
2 Q. And the materials that are in this
catalog,
3 would these be materials that are actually used by
4 school districts generally?
5 A. Yes, they are.
6 Q. If you can turn to -- let's just use the
actual

document 7 pagination from the document. Page 5 of the
document 8 refers to -- this is under the title "Curriculum
And Me 9 Booklets/Monographs." The fourth one down, "You
10 Tobacco Free: Children's Activities In Tobacco
11 Awareness." If you look down towards the bottom,
it 12 seems to indicate that these materials inform
children 13 how secondhand smoke affects people and pets.
14 A. Um-hum.
15 Q. Are you familiar with that document or
16 material?
17 A. I'm familiar with the title, and I've
heard 18 comments about it, yes.
19 Q. Is this something that's used in the
20 Santa Clara County schools, at least in some
schools?
21 A. I think so, yes.
22 Q. And this would be an example of a piece
of 23 warning material that has environmental tobacco
24 smoke-related messages in it?
25 A. Yes.
26 Q. Do you know what it is? Is this a
curriculum 27 or a booklet, or do you know?
28 A. I think that this is -- it's a pamphlet.
It
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83
1 seems like it's a small one. Looks like here it
2 indicates it's 47 pages. And it's targeting
3 elementary-level students
4 Q. So is this one of the things that would
be 5 handed out in a course or in a health fair or
something 6 like that?
7 A. Possibly. Probably it more likely is
used in 8 the classroom where the lessons are actually
taught. 9 It's K-3, so these are lessons for K-3's
youngsters.
10 Q. I see. Turn to page 6. Four down from
the 11 top, there's an entry, "Facts About Secondhand
Smoke."
12 A. Um-hum.
13 Q. Are you familiar with that publication?
14 A. I'm familiar with basically the whole
concept 15 of it, yes. That particular publication, I'm sure
I've 16 seen it, but I don't recall it.
17 Q. And again, as its title suggests, I
assume 18 that's secondhand smoke-related informational --

19 A. Yes.
20 Q. -- materials?
21 A. Yes. And as I indicated earlier, the
American
22 Lung Association and Cancer and Heart have been
very
23 generous in sharing their information. Mostly
they give
24 them away free.
25 Q. So this is an American Lung Association
26 pamphlet that they provide to school districts to
27 provide to -- is this one that's provided to
adults or
28 students? I think it might be adults based on
this
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84
1 target audience "A" on the left.
2 A. Right. Adults, which also could include
high
3 school students.
4 Q. I see. I see. Would you be able to
offer any
5 opinion about how widely circulated that document
is or
6 that material?
7 A. That specific one, no. I do know, as I
said
8 before, that the association, the support
associations
9 have been very generous in helping us distribute
those,
10 so . . .
11 Q. On page 11 at the top, this is under
12 "Audiovisuals," there's "Be Smart Don't Start." I
13 direct your attention down towards the bottom
where it
14 says, "Also illustrated are the immediate and
long-term
15 effects of smoking, the variety of diseases it
causes,
16 its harm to unborn children, the special danger to
17 women, plus the dangers of sidestream smoke and
the
18 increasing demand to control public smoking."
19 A. Um-hum.
20 Q. Would this be a material -- I guess in
this
21 case an audiovisual material -- that would provide
22 information about secondhand smoke?
23 A. Yes, looks like it does. It says very
24 specifically there.
25 Q. Are you specifically familiar with this
26 audiovisual material?
27 A. No, I'm not.
28 Q. I take it, then, you wouldn't know one
way or
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Clara 1 the other whether that has been used in the Santa
2 County schools, this specific one?
3 A. I wouldn't know specifically, but I would
4 assume that it has been.
5 Q. Why would you assume that it has been?
6 A. Because these materials are readily
available 7 to the schools, and there has been a lot of effort
to 8 implement the programs, and making use of the
materials 9 is one way of implementing the programs.
10 Q. Now, the materials that are in these
catalogs, 11 do these tend to be the most heavily used or most
12 popular materials?
13 A. Depends again on the districts.
Sometimes 14 they'll access the materials for review and just
to 15 examine them and then purchase them outright. But
then 16 there are some teachers who still plan
sufficiently 17 enough to have the materials at a certain time and
18 deliver it in their program.
19 Q. I guess what I'm thinking, though, as I
20 understand it, this Healthy Kids Resource Center
is a 21 regional center?
22 A. That's right.
23 Q. And so for their catalogs, do they tend
to put 24 out catalogs of the things that have been most
popular, 25 just generally speaking, for use in the community?
26 A. I don't know necessarily that they put
out 27 things that are the most popular. They try to put
-- 28 have things available that they think are the most
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1 effective, and they encourage use by all the
schools.
2 Q. Right, okay. On page 13, this is also
under 3 "Audiovisuals," are you familiar with the
audiovisual 4 "Kick the Habit"?
5 A. Not specifically, no.
6 Q. Would you agree, based on reading the
summary 7 of it, though, that it's an audiovisual material
that 8 presents information about the dangers of
secondhand 9 smoke?
10 A. Um-hum, it says very specifically, ". . .
the

11 hazards of smoking, explains the conditioning
process by
12 which people become hooked on cigarettes . . .
evidence
13 on the dangers of secondary smoke."
14 Q. Okay. Are you familiar with the
audiovisual
15 material four down from the bottom, entitled
"Secondhand
16 Smoke"?
17 A. I'm not strongly familiar with any of
these and
18 the specifics of them, but just because this is a
19 process that's handled through the Healthy Kids
Resource
20 Center.
21 Q. Okay.
22 A. Again, that one does also refer to the
dangers
23 of secondhand smoke.
24 Q. And the reference where it says "English,
25 French, Portuguese, Spanish, Swedish, Finnish,"
does
26 that mean that this audiovisual material is
available in
27 all those languages?
28 A. That's -- that's correct, yes.
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1 Q. I guess, last, I draw your attention to
2 page 16. The second from the bottom, "Smoking:
It's
3 Your Choice." Based on the summary of that one,
would
4 you agree that that's also a videotape that
contains
5 messages about secondhand smoke?
6 A. Um-hum. It states it very specifically.
7 Q. Is that not one, though, that you
specifically
8 reviewed?
9 A. I -- no, I have not.
10 Q. Can you tell me a little bit more about
how
11 these Healthy Kids Resource Centers are organized
and
12 work? I believe there's more than one of them in
the
13 state; is that right?
14 A. There's only one Healthy Kids Resource
Center,
15 and then there is a dissemination center in
Southern
16 California.
17 Q. I see.
18 A. The Healthy Kids Resource Center is
19 underwritten, sponsored by the state Department of
20 Education. They hire a director who does research
and
21 analysis of the materials and houses -- and is
22 continually working with publishers and

accumulating new

23 updated materials, and then houses sufficient
quantities
24 of those materials to support the needs of the
school

25 districts throughout the state, actually.

26 The material --

27 Q. Who is the -- I'm sorry.

28 A. The materials are offered on a -- you
have to

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1 arrange to receive the materials, and then you
just pay
2 the postage to have them returned. And you keep
them, I
3 think, for up to a six-week period.

4 Q. So it's really essentially a library of
5 materials?

6 A. Exactly.

7 Q. Do you have to pay anything to borrow
them?

8 A. Just the fee that you pay for postage and
9 returning them. That's all it costs.

10 Q. And you mentioned that it's underwritten
by the

11 DOE, Department of Education.

12 A. Right.

13 Q. By that, do you mean that it's funded by
14 Prop 99 funds that the department gets?

15 A. That's my assumption. I'm pretty sure
that

16 that's -- those are the funds that support it.

17 Q. So is this different from the Tobacco
18 Clearinghouse in that the Tobacco Clearinghouse,
you

19 actually get the materials permanently; whereas
this is

20 a loan program?

21 A. Right, right.

22 Q. Who is the director?

23 A. Deborah Wood.

24 Q. And where is she located?

25 A. She's at the Alameda County Office of
26 Education. And there's a document that I have
given you

27 that has her address and phone number and
everything.

28 It's in that --

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1 Q. Is it the same thing as the one -- well,
this

2 one's a Vallejo address.

3 A. Right.

4 Q. This is an old one?

5 A. It was there originally, and then they
moved it

6 to Alameda. And on the document that I gave you

on --

7 Q. Resource center document?
8 A. The guides for application, guides.
9 Q. I see it. 313 West Winton Avenue.
10 A. That's right.
11 Q. Hayward, California.
12 A. That's correct.
13 Q. Telephone number 510-670-4581.
14 I'm just saying that for the record. I

don't

15 need you to correct that, to state that that's
correct.

16 So the center -- the resource center used
to be
17 in Vallejo and moved to Alameda recently, or was
it a
18 while back?

19 A. It's been probably about five years, I
think.

20 Q. And so Deborah Wood happens to be like
you, a
21 head of a county Office of Education, but she has
this
22 additional responsibility?

23 A. No. She -- that's her full-time
position, is

24 the director of this resource center.
25 Q. I see. So in the Alameda County Office
of

26 Education -- I'm sorry.

27 In the Alameda County Office of

Education,
28 there would be somebody who has your -- let's just
call

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1 it for now TUPE director position, and then
there's a

2 second person who runs the resource center?
3 A. That's correct. It's housed in that

county
4 office.

5 Q. Do you know if they keep records at the
6 resource center of who has ordered what over a
period of
7 time?

8 A. It would be my assumption that they would
have
9 some kind of recordkeeping process.

10 Q. But you don't have any specific
knowledge?

11 A. No.

12 Q. Would Deborah Wood be the person who
would be
13 knowledgeable about that?

14 A. Right, or her staff. She has staff,
several

15 people that work with her.

16 Q. Is this where most of the materials, the
17 printed and audiovisual and audio materials that
18 district -- Santa Clara County district schools

use --

19 let me back up. That was getting to be a
confusing

20 sentence.

21 Is the resource center the place where
schools

22 typically get their printed audiovisual and audio
23 materials for providing education to students?

24 A. Many of the districts make use of the
resource

25 center, but most of the districts have gone out
and

26 purchased their own materials, and so they pretty
much

27 own their own materials for the most part. When
they're

28 doing updates or additional review, they bring
materials

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1 in from the resource center to take a look at
what's

2 available, and then they generally purchase their
own.

3 Q. Does the resource center then collect the
same

4 sorts of publications that are available on the
general

5 market? Is that how that -- I mean, do they have
the

6 same sort of stuff and you can sort of -- if
you're a

7 school district, you can actually take a look at
it, see

8 what it is and then go out and buy it?

9 A. Right, generally, yes, uh-huh. And --

10 Q. I'm sorry. Go on.

11 A. And they look to see how it aligns with
the

12 resource as far as best practices and best
strategies

13 and those kinds of things.

14 Q. And would it normally be bought from the
15 Tobacco Education Clearinghouse or from some other
16 source?

17 A. They usually -- I would -- they would
purchase

18 it directly from the development, the company that
19 develops the materials. And that's not

necessarily the
20 Tobacco Education Clearinghouse.

21 Q. Who are the major companies that develop
those

22 sorts of materials?

23 A. Well --

24 Q. If you know.

25 A. As this thing has moved forward, there
have

26 just been multiple publishers that have stepped up
and

27 have developed things. And so to say that there

is --

28 there is an organization. They call themselves --
oh,

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1 gosh -- ACG, I think it is.

2 Q. ACG?

3 A. Right. I can't think right now what it
stands

4 for. But they are the publishers for Here's

Looking At

5 You 2000, and I think also for Quest.

6 And they have quite a reputation, and
they have

7 a lot of prevention education people who work in
their

8 network, and they probably are the leading

publishers of

9 prevention education materials.

10 Q. Including tobacco-related prevention
education?

11 A. Right.

12 Q. And their name is ACG?

13 A. I would have to go -- yes. I can't
recall what

14 that stands for, but -- I have to look it up. It
might

15 be in this someplace.

16 Q. I was wondering, yeah, if you might see
one of

17 them in here.

18 A. They have quite a number of researchers
that

19 work with them. They actually work with David
Hawkins

20 out of the University of Washington.

21 Q. I see ACS pamphlets.

22 A. Where is that?

23 Q. Page 9. Oh, that's American Cancer
Society.

24 Is that what it is, the American Cancer --

25 A. No, no. They're a private organization
out of

26 the Midwest someplace.

27 Q. In any event, this publisher, is it safe
to say

28 that a lot of the materials that are used in the
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1 Santa Clara County schools come from that
publisher?

2 A. Actually, here's looking at 2 -- yes,
Here's

3 Looking At You 2000 even prior to the tobacco,
because

4 the public health system had done some analysis of
5 curriculum and supported Here's Looking At You

2000 and

6 actually helped schools to purchase it, because

it's a
even
percentage
At You
10 2000.

11 Q. And is Here's Looking At You 2000 a
curriculum
12 that has tobacco-related educational materials in
it at
13 this point?

14 A. At this point it does, yes. They quickly
15 updated their curriculum and added tobacco as an
16 independent component, and they have got that out

very
17 effectively as well.

18 Q. And does that include tobacco-related
education
19 that would include ETS?

20 A. Yes.

21 Q. And that curriculum is used by what age
22 students?

23 A. It's generally a K-6 or K-8 program. I
think
24 they have a middle school component now, but it's
25 generally K-8.

26 Q. And -- okay. Do you know specifically
what the
27 ETS-related messages are or information that's
contained
28 within that curriculum?

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1 A. I would imagine they're comparable to
what's in
2 most of these, which is, you know, that secondhand
smoke
3 has poisons in it and it damages people who
breathe it
4 and, you know, those kinds of messages.

5 Q. But again, you don't know the specific
6 messages?

7 A. No, no.

8 Q. Okay. Are you familiar with sort of the
major
9 components of that curriculum, how it's taught?

10 A. Just generally. I know that there is a
content
11 component as well as skills development component.

And
12 because it has the skills development component is
one
13 of the reasons it's recognized as an effective
14 curriculum. And so I don't know -- I don't know
the
15 specifics of the lessons or how it's broken out.

16 Q. Do you know if it's taught as a
stand-alone
17 course or if it's -- what the format is?

18 A. No, I can't honestly say. It's a whole
series
19 of lessons, and it can be -- it can be the
complete drug
20 program.
21 Q. I see. So it can be -- you could use
pieces of
22 it, or you could put it together as one --
23 A. Right.
24 Q. -- integrated program?
25 A. Exactly. It comes as a complete unit, a
26 complete kit.
27 Q. Okay. You mentioned Quest. What's
Quest?
28 A. Quest is also a -- it's a skills-based
program.

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1 It really teaches kids how to improve
communication,
2 decision making, analyze high-risk situations,
make
3 choices, evaluate the choices and the impact the
choices
4 have. So it's really a skills development
component,
5 and it has very little specific drug information
in it.
6 So --
7 Q. It's a process, not a content?
8 A. Exactly.
9 MR. GROSS: Okay. I also just want to
mark and
10 have you look briefly at a couple more catalogs
from the
11 California Comprehensive Health Education Resource
12 Center.
13 Could you mark these exhibits.
14 (Whereupon, Defendants' Exhibit 448 was
marked
15 for identification.)
16 MR. GROSS: Q. I've had placed in front
of you
17 Exhibits 448 through 451. Are you familiar with
those
18 documents?
19 A. Vaguely, yes, uh-huh. Is that the same
as this
20 one?
21 Q. Might be a different time period.
22 A. Yeah. It looks like the same document.
23 Q. Oh, that's possible.
24 A. Okay. Yeah, again, it's the Healthy Kids
25 Resource Center materials.
26 Q. Each one of these are catalogs of Healthy
Kids
27 Resource Center materials like the first one,
although
28 some of them at least, and possibly all of them,
are

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1 different editions; is that right?
2 A. That seems to be the case, yes.
3 Q. And two of those are the ones that you
just
4 gave me today at the bottom?
5 A. Right.
6 Q. And as with the other ones, these
documents
7 compile materials that are made available to
schools
8 statewide for use in health prevention education,
9 including tobacco-related education; correct?
10 A. That's correct. Actually, this is the
same
11 document.
12 Q. Okay. So one of them --
13 A. -- is a repeat of that one.
14 Q. Unfortunately, we already marked it. So
that's
15 a bit of a waste of paper.
16 A. Okay.
17 Q. But the other two are -- the other three
are
18 actually different ones than the ones that --
19 A. These two are separate. These three are
the
20 same.
21 Q. Okay. That's all the questions I have
about
22 those.
23 A. Okay.
24 Q. You can put those aside.
25 During the break, you had mentioned that
26 another publisher is ETR Associates.
27 A. That's correct, uh-huh. They're a local
28 health -- actually, they're a national
clearinghouse for
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1 health education materials. They're located in
Scotts
2 Valley, and they publish lots of very
teacher-friendly
3 materials, and they're used quite a bit.
4 Q. In Santa Clara County?
5 A. In Santa Clara County, right.
6 Q. And do those include materials that are
--
7 would include warnings about environmental tobacco
8 smoke?
9 A. They do, yes.
10 Q. Okay.
11 A. And I think there's reference to some of
the
12 materials in these documents.
13 Q. In other words, some of the ETR documents
are
14 included in the California Healthy Kids Resource

15 Centers?
16 A. That's correct, yes.
17 Q. Other than the publishers themselves, the
18 Tobacco Clearinghouse and the California Healthy
Kids
19 Resource Centers, are there any other places or
sources
20 that schools in Santa Clara County would turn to
to get
21 warning materials about tobacco smoke?
22 A. You mean other than ones we've talked
about,
23 the American Heart and Lung and Cancer and those
types
24 of pamphlets? Those are the primary resources.
25 Q. So there'd be some private entities like
26 American Lung, Heart and Cancer --
27 A. Yeah.
28 Q. -- that also provide these terms?
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1 And are there others besides those three?
2 A. And resource center and Tobacco Education
3 Clearinghouse and publishers, I think that about
covers
4 everyone.
5 Q. Okay.
6 A. Aah, there's, you know, the dissemination
7 center. The state department actually has
contracted
8 with a number of -- through their innovative
projects
9 grant, they offer contracts with educators who
want to
10 take on and develop certain kinds of materials and
11 develop programs. And they have sponsored those
12 programs, and then people have developed all these
13 things and distributed them. And so that's been
--
14 that's through the dissemination center as well.
That's
15 part of what they offer through the dissemination
16 center.
17 Q. That's the Los Angeles dissemination
center?
18 A. Right.
19 Q. Who runs the Los Angeles dissemination
center?
20 A. Gus Dalias is the person that's the
primary
21 contact, and he has someone working with him whose
name
22 I don't know if it's listed in here or not.
23 (Witness reviews document.)
24 MR. GROSS: Q. Is Gus Dalias somebody
from
25 Los Angeles County Office of Education?
26 A. Right. He's more or less my counterpart
in the
27 Los Angeles county office, but because Los Angeles
is

28 such a huge county, they must have about five
different
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1 people working doing the same thing that I'm doing
here.
2 Q. And the dissemination center disseminates
the
3 same types of materials as the Healthy Kids
Resource
4 Center but also actually has other sources?
5 A. They primarily have materials, drug,
alcohol
6 and tobacco education materials that have been
piloted
7 and supported through the state Department of
Education.
8 And so many of these materials are just available
free.
9 You just -- all you have to do is ask for them.
And
10 they are pretty much -- it's my understanding that
they
11 kind of are research based, and they've been
piloted,
12 and they've been shown to be fairly effective.
13 Q. You say "research based" and "piloted."
Does
14 that mean that these are materials for which
there's,
15 like, focus groups or something that is done to
ensure
16 that they're good and useful materials?
17 A. Exactly, yes. Through grant efforts that
the
18 state department has helped to support, different
19 educators have taken these grants and actually
20 piloted -- developed and piloted these programs.
21 Q. I see. And research-based materials,
then, I
22 guess, I take it, would be sort of the most
reliable and
23 most -- the materials that people would have the
most
24 feeling of certainty as to how well they'll work?
25 A. Yes.
26 Q. And the dissemination center in L.A.,
does it
27 disseminate statewide?
28 A. That's their intent. This is fairly new.

I
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1 think this is the second year they've been in
place.
2 And so they're offering to disseminate this
material
3 statewide, yes.
4 Q. Okay. And do you know whether they keep

5 records or summaries of who's ordered what?
6 A. It would be my assumption that they would
have
7 a database.
8 Q. Has Santa Clara County ever ordered from
the
9 dissemination center, as far as you know, any of
the
10 school districts?
11 A. I don't know. They're fairly new. This
is
12 just a new thing that's just recently been put in
place.
13 Actually, I think they've just been working on
compiling
14 all of the things.
15 Q. I'd like to just go through a list, kind
of
16 like we did before, of programs of the types of
17 educational and warning materials that are used in
18 Santa Clara County that relate to tobacco smoke.
19 I'll run through some, and you just tell
me
20 whether they have been used in the county or not.
Some
21 of them I think it'll be pretty obvious.
22 For example, pamphlets that warn about
tobacco
23 smoke, including environmental tobacco smoke
issues?
24 A. Um-hum, yes, I'm sure they are used.
25 Q. Textbooks that have information about
tobacco
26 smoke and environmental tobacco smoke?
27 A. Yes.
28 Q. It's harder to do this without a nice
list in

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1 front of me as we had before.
2 Videotapes that provide messages about
the
3 harms associated with tobacco smoke, including
4 environmental tobacco smoke?
5 A. Yes.
6 Q. Audio cassettes that provide information
about
7 the harms associated with tobacco smoke, including
8 environmental tobacco smoke?
9 A. I would assume so, yes. I know there
have been
10 some audiotapes that have been provided. It's
been a
11 while. It's not the most popular form of
education.
12 Q. Are there ever any newsletters or
13 advertisements that are done in, say, school
newspapers
14 that relate to the harms attributed to
environmental
15 tobacco smoke or tobacco smoke generally?

16 A. I'm sure -- I know that many of the
schools use
17 their newspapers as a communication process, both
to
18 their community and their students. And I'm sure
that
19 occasionally that tobacco is addressed in the
20 newsletters.
21 Q. For example, if they were going to have
the Red
22 Ribbon Week, there probably would be an article or
an ad
23 or something about it that might provide some
24 information about the issues that are being
addressed?

25 A. Right.

26 Q. Posters that relate to the health effects
of
27 tobacco smoke and environmental tobacco smoke, are
those
28 used in Santa Clara County schools?

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1 A. Yes. There are quite a few posters,
actually,
2 that have been provided by a number of different
3 organizations, and you see most of them in
classrooms
4 when you walk in.

5 Q. Okay. Banners; in other words, posters
but
6 larger?

7 A. I'm not familiar with banners, but that
doesn't
8 mean they aren't out there.

9 Q. How about paraphernalia like buttons,
T-shirts,
10 things of that nature that have messages about
tobacco
11 smoke or environmental tobacco smoke?

12 A. Yes. Those are favorite things that are
used
13 particularly during the Red Ribbon Week, all of
those
14 items, pencils and rulers and bookmarks and
ribbons
15 and --

16 Q. They're given out to students?

17 A. Yes.

18 Q. Okay. What other types of materials --
well,
19 curriculum. Curricula, I mean actual curricula
that are
20 used by teachers, I guess, would be another form
of

21 written materials that relate to smoking and
22 environmental tobacco smoke that are used in
23 Santa Clara, I would assume?

24 A. Um-hum, yes. And they even have kids
create
25 things. Kids create their own bumper stickers and

license 26 little badges themselves and signs and special
an 27 plates. I mean, there's a whole series of things,
28 array of activities that they do.
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1 Q. And those are sort of -- the activity
itself is 2 meant to be educational, and then the product is
3 supposed to be posted in a way that will help to
educate 4 those who are around the school?
5 A. Exactly. Sometimes the products are mass
6 produced and shared with all the students in the
schools 7 or with students in the elementary schools.
8 Q. Have I missed any significant categories
in 9 going through that summary?
10 A. I think we've pretty well touched on
11 everything, all the different forms and different
ways 12 of getting information out.
13 MR. GROSS: Okay. Can you mark this as
exhibit 14 next in order.
15 (Whereupon, Defendants' Exhibit 452 was
marked 16 for identification.)
17 (Discussion off the record.)
18 MR. GROSS: Q. I've had marked Exhibit
452. 19 This is a pamphlet I believe that you provided to
us; is 20 that correct?
21 A. That's correct.
22 Q. Where did this pamphlet come from?
23 A. Well, this goes back a ways. As I
recall, 24 there were quite -- we asked for these. We sent
away 25 and asked for them when we were in the early
phases of 26 this program. We were trying to get all districts
and 27 district offices and school sites to become
tobacco-free 28 and be recognized, which was a mandate from the
state
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1 department.
2 They had a time frame in which they had
to 3 become totally tobacco-free, which meant that
there 4 couldn't be any bingo games in the evenings or at
any

5 time smoking on any of the campuses, and signs had
to be
6 in place and policies had to be put in place, and
7 procedures for communicating all of this had to be
put
8 in place. And so during that phase of this, we
were
9 highlighting the dangers of environmental tobacco
smoke.

10 Q. Have all of the schools become
tobacco-free?

11 A. With the exception of one small school,
which
12 is actually tobacco-free but they just did not
want to
13 go through all the procedural things. I mean,
there was
14 a series of things they have to do. And then they
had
15 to be officially recognized as being tobacco-free
after
16 a survey of their facilities and their campuses.

17 Q. Did this take place in the '95-96 time
frame,

18 the whole tobacco-free implementation?
19 A. Well, actually, it began as an initial
mandate,
20 being a part of the program. So it was from '90
21 through -- up to '96, I think was the final date.

So it
22 was that whole movement, because there were some
schools
23 who actually allowed students to smoke on campuses
at
24 that time.

25 Q. And during that time period, you said
that a
26 particular focus of, I guess, the county Office of
27 Education then was to educate about environmental
28 tobacco smoke?

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1 A. That's correct, yes.
2 Q. And is that to educate both -- to educate
who?

3 A. Actually, everyone at that time. I think
4 tobacco smoke was just -- smoking was just so
generally
5 accepted and it was just so commonplace, and so we
had
6 to educate administrators, teachers as well as
students
7 and parents and communities.

8 Q. Okay. And this document, Exhibit 452,
this is
9 an example, I take it, of a pamphlet about the
harms
10 attributed to environmental tobacco smoke that was
11 then -- that would have been distributed by the
county
12 office to schools and school districts?

13 A. That's right.
14 Q. And I take it, given -- because this is
what
15 you were saying -- to administrators, students and
16 faculty?
17 A. Right. And they would even share it in
their
18 communities.
19 Q. With parents?
20 A. With parents. Because they had to get
parents
21 to support and buy into this whole process.
22 Q. Right. And this was all during the '93
to '96
23 time frame? Is that what you were saying?
24 A. Generally, yes.
25 Q. So would you say this was one of the
priorities
26 of the county Office of Education during that time
27 period was to implement this plan and educate --
do the
28 educational groundwork that was necessary to
implement

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1 it?
2 A. I would say yes.
3 Q. Okay. Were there -- is this just a
sample of
4 the types of pamphlets that would have gone out at
that
5 time, one that you happened to have handy?
6 A. Right. A lot of that material is gone.
I
7 don't keep material at all old. But I came across
this,
8 and it is a sample of what we were trying to
accomplish.
9 Q. So you would send out other pamphlets
like this
10 and other materials similar to it to the school
11 districts?
12 A. Yes. And talk to district
representatives
13 about the whole process.
14 And of course we were working in
partnership
15 with American Lung Association and American Cancer
and
16 Heart, and all of those agencies had similar
materials.
17 Q. And they were also providing them to
schools
18 sort of in a coordinated effort with you?
19 A. Yes.
20 Q. And their materials were also going to
21 administrators, students and faculty?
22 A. Yes. And the Tobacco Control Coalition
was
23 doing widespread public campaigns about the
importance

24 of doing this as well. And so there was support
from
25 that. And there were things in the media. It was
an
26 extensive campaign.

27 Q. Things in the media. Is that like
television
28 and newspaper and radio advertising?

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1 A. Yes. Through the initial phases of the
2 Proposition 99 project, there was a whole series
of very
3 effective television media pieces about
environmental
4 tobacco smoke. They even used some of the board
members
5 of -- or supposedly board members from tobacco
industry
6 sitting in this smoke-filled room and talking, and
they
7 were very effective commercials.

8 Q. Are you talking about statewide
advertising, or
9 are you talking about local advertising?

10 A. Statewide advertising. But that was a
support
11 mechanism for moving this whole effort forward.

12 Q. I understand. That's the -- we'll refer
to the
13 statewide media campaign for Prop 99. That's what
14 you're referring to?

15 A. That's right, yes.

16 Q. Okay. And were you reinforcing that at
the
17 local level with providing sort of more direct
18 educational efforts, more person-to-person level?

19 A. Right. And then the state reinforced
that by
20 tying funding directly to being tobacco-free and
21 smoke-free.

22 Q. All right. Did you hold at that time
period,
23 '93 to '96, hold workshops and things of that
nature,
24 informational meetings with school districts and
parents
25 and teachers, things like that?

26 A. With school district representatives,
yes. As
27 I indicated earlier, I have ongoing meetings with
28 district representatives. We meet every other
month.

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1 So that was part of the process of getting this
2 information out to them.
3 It's their responsibility to get it out
in

it at 4 their own communities. So, you know, I would do
with 5 the district level, and the districts would do it
then 6 the school sites and communities.
reasons 7 Q. So, in other words, the districts would
with 8 have meetings with their individual school
9 administrators about the program and about the
10 for the program, including the harms associated
11 environmental tobacco smoke?
12 A. That's correct.
13 Q. And then the schools would in turn have
14 meetings with the students and with the faculty
and with 15 the parents?
faculty 16 A. That's correct, because this also meant
17 couldn't smoke on campus in any location.
18 Q. Right. And that all phased in between
'93 and 19 '96? So, in other words, some school districts
were, 20 you know -- some districts or perhaps schools
within 21 districts were smoke-free from '93 and some, they
took 22 until '96?
23 A. That's correct, because of union issues
and 24 negotiation with faculty primarily is what delayed
the 25 process.
26 Q. Okay.
27 A. Even in our own office.
28 MR. GROSS: Let's do another exhibit.

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marked 1 (Whereupon, Defendants' Exhibit 453 was
2 for identification.)
3 MR. GROSS: Q. This is another document
that 4 you produced to us. Are you familiar with this
5 document?
6 A. Yes, I am.
7 Q. What is this document?
8 A. The American -- this is also in the
earlier 9 phase of this. The American Heart Association
published 10 this to help support schools becoming tobacco-free
and 11 laid out specific steps that they needed to take
in 12 order to assure that and provided sample policies
and 13 all this here, all this research.
14 Q. So it's basically -- I mean, it was a

pamphlet

15 or some sort of a booklet that was distributed to
16 schools, trying to provide them guidance with

respect to

17 how to implement a smoke-free school program?

this

18 A. Right, to districts. Every district in

19 county received this information.

20 Q. Okay. And this information also includes

about

21 factual information as reflected on the first page

22 health effects related to secondhand smoke?

23 A. That's right.

school

24 Q. So that information was sent to every

did

25 district. Do you know what the school districts

26 with this?

community

27 A. I'm sure that they used it in their

28 education piece to explain why there could no

longer be

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1 bingo games held in their facilities.

either

2 Q. So, in other words, they just would

the

3 distribute the information contained in this or

administrators,

4 pamphlets themselves perhaps to, again,

5 students --

6 A. Community.

7 Q. -- community members who happened to be

8 associated with the school?

received so

9 A. Right. I don't know that students

10 much of this, but certainly community and faculty.

American

11 Q. Okay. And I assume there were other

materials

12 Heart Association pamphlets or documents or

of

13 like this -- this is, again, a sample of the sorts

'96

14 things that were being distributed in that '93 to

15 time frame?

16 A. Right.

distributed

17 Q. Are any of these materials still

really --

18 explaining the tobacco-free program, or did it

the end

19 once it was fully implemented, was that sort of

20 of distributing the materials for that purpose?

that

21 A. That's pretty much in place, yeah, for

22 purpose is done. Primarily, the focus now is just

23 implementing the programs to students.

24 Q. Right.

25 Does -- are there any programs -- strike

that.

26 Is anything done in order to target
specific
27 subgroups within the student populations for
messages
28 about tobacco smoke and environmental tobacco
smoke; for
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1 example, students for whom English isn't their
first
2 language?
3 A. Yes. As we've moved forward in this
whole
4 effort, we've discovered that there's a whole
section of
5 kids that won't be responsive to basic prevention
6 education information. There's another whole
subgroup
7 of kids that are already actively involved in
high-risk
8 behaviors and are inclined to continue that path
unless
9 certain other forms of intervention are provided.
10 So there is -- that's partly what's
behind this
11 huge listing of other activities that you see from
the
12 state department. These kids need not only the
13 information, the content information, but they
need
14 other opportunities to internalize all that
information
15 through activities of their own. And so not only
second
16 language learners, but different levels of risk
17 behaviors among regular populations students.
18 Q. So, in other words, with respect to
tobacco and
19 other health-related warning issues, high-risk
kids get
20 more attention in the sense that they don't just
get the
21 information, they also have -- activities are
designed
22 to try and reach out to them?
23 A. Yes, up to a certain extent. High-risk
kids
24 particularly still in the regular classroom
setting.
25 Once those high-risk kids have completely flunked
out of
26 that setting and gone into alternative school
settings,
27 the primary focus is counseling, and it's more
looking
28 at social behavior that just fits into any kind of
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that 1 social norms, and tobacco is not considered at
2 point a primary issue.
are 3 Q. So now you're talking about the kids that
4 in the special schools?
5 A. Right.
materials 6 Q. They probably received educational
7 about tobacco at least before they kind of got out
of 8 the regular school system, but because they have
other 9 even more systematic problems, those get the focus
first 10 and foremost once they're in those other schools?
11 A. Exactly, yes.
least 12 Q. But those other schools do do -- or at
13 they're supposed to do some modicum of
tobacco-related 14 education as well?
15 A. Right. And -- yes.
some of 16 Q. It's just a lower priority compared to
17 the other things?
the 18 A. Exactly. And the tobacco program within
19 regular school setting, particularly with the
20 competitive grant process, is supposed to target
not 21 only the total population, but have particular
efforts 22 for the high-risk population.
23 Q. Are there foreign language materials for
24 students for whom English isn't their first
language? 25 A. There are. I'm not personally acquainted
with 26 them, but I know that there have been -- through
the 27 Tobacco Control Coalition, there's actually been
28 contractual things to develop materials in
multiple

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access 1 languages. And I know the schools have tried to
2 some of those.
Spanish 3 Q. Okay. Would those languages tend to be
4 and Asian language materials?
5 A. Primarily Spanish and Vietnamese.
6 Q. Is that because those are the largest --
7 A. Largest populations, yes.
8 Q. In this county?
9 A. Right. And a great many more materials
10 available in Spanish than Vietnamese.
11 Q. Is there any special effort made to reach
the 12 parents of those children with messages about

tobacco

13 smoke?

14 A. Oh, yes, yes. We -- this office does something

15 we call Parent Academy, and this will be our third year

16 for Parent Academy, in which we target the

high-risk --

17 we identify our schools according to their success

18 rates, and we have them -- we know which schools

need

19 the greatest support systems.

20 And we offer parent training programs,

and a

21 piece of that was a session in tobacco education

last --

22 at our last round.

23 Q. And that's actually performed by the

county

24 Office of Education?

25 A. Right.

26 Q. Does the tobacco education part address,

along

27 with other tobacco education related issues,

secondhand

28 smoke?

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1 A. Yes. Primarily because it's usually the

adults

2 that are smoking and having an impact on the

youngsters.

3 Q. And that program has been going on for

three

4 years?

5 A. This will be -- this is our third year.

We

6 haven't had our third session yet.

7 Q. How many -- where is it held? I guess

I'm

8 trying to get some general understanding of what

the

9 parameters of it are.

10 A. I only mention that because that's a

piece that

11 we do. Many schools do the same thing. They have

their

12 own parent education programs. And in those

programs

13 they provide information, training specific to the

14 parents. And frequently there's information on

15 substance abuse, including tobacco.

16 This will be our third year for offering

this.

17 At our first academy, we had about 80 parents, and

this

18 past one we had 175. And we worked with targeted

19 districts. Franklin, McKinley School District,

Eastside

20 and Alum Rock are some of our targeted districts.

21 Q. Are a significant number of the people

that
22 attended those people for whom their first
language is
23 Vietnamese or Spanish?
24 A. Spanish primarily, and the course is
offered in
25 Spanish.
26 Q. Are there any other specific efforts that
the
27 county office engages in to reach those other than
28 English-speaking people about tobacco-related
issues?

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1 A. Not -- not directly. Normally that's --
it's
2 more of a community piece with the districts.
3 Q. Is that because actually certain
communities
4 would tend to have -- be able to better do that
since
5 they're more tailored to their group?
6 A. Right, exactly.
7 Q. Do you know what the Comprehensive Health
8 Institute is?
9 A. Comprehensive Health Institute.
10 Q. Let me give you a little background
because
11 it's not a quiz. I had a document. Right now I
can't
12 put my hands on it. But in my notes I refer to it
as an
13 ad for a Comprehensive Health Institute for
teachers.
14 A. There are many different in-services for
15 teachers. And I don't know about that one
specifically,
16 but I'm sure that, you know, it's one of those
that
17 offer opportunities to learn more about what a
18 comprehensive health education program looks like.
19 Q. So that would be -- even if you don't
recognize
20 that specific title, the Comprehensive Health
Institute,
21 I think what you're saying is that the county
Office of
22 Education does provide training for teachers that
are
23 about how to put together health education
programs,
24 including ones that would relate to tobacco smoke?
25 A. Yes, we do. Not only the county Office
of
26 Education, but the state department has an annual
27 conference which many of our people attend. And
it's
28 focused on -- it's a two-day conference. It's
really

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health 1 looking at health education and the best quality
encouraged 2 education. And so -- and that's -- they're
and to 3 to build an attendance to that state conference
4 their application processes.
5 Q. Let's talk for a minute about education
and 6 warning-related programs done by other groups. We
7 touched on it very briefly earlier, I think.
8 Do you have any understanding of what is
going 9 on at the county level with respect to use of the
10 Prop 10 funds that apply to tobacco-related
education?
11 A. Just very limited. I just know that
generally 12 it's for 0 to 5 population, and there's a great
deal of 13 effort going into planning and how to move forward
and 14 the best use of those funds.
15 Q. And is it the department of Social
Services 16 that has the county committee for Prop 10 here?
Is that 17 what it is?
18 A. I think -- it's the Children and Family
First 19 Committee, and I think Social Services plays a
real 20 powerful role in that, although it involves a
number of 21 other agencies as well.
22 Q. Does it involve your office?
23 A. Not directly. Although we would have
enjoyed 24 being part of that, we weren't invited to be a
part of 25 it.
26 Q. How do they select the committee?
27 A. That was an interesting process. They
had so 28 many of the committee members that were appointed
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county 1 through this legislative process, and then the
the 2 Board of Supervisors got to also be involved in
3 appointment process.
4 Q. And you said -- do you know whether
they've 5 gotten past the planning process yet and have
actually 6 been implementing any warning programs, or are
they 7 still in the planning process?

8 A. I know that they're still very much in
the
doing
10 some media pieces.
11 We have some wonderful billboards up in
12 multiple languages basically saying parents are
the
13 first teachers for their children, and have these
great
14 picture visuals of the mother and child. So
they're
15 moving forward. It's a huge undertaking, when you
think
16 about what they're trying to accomplish. So . . .
17 Q. So these are billboards and things like
that
18 around Santa Clara County? Is that what you mean?
19 A. Right, right, in multiple languages.
20 Q. Do you know what languages you've seen
them in?
21 A. I've seen them in Vietnamese and Spanish
and
22 English.
23 Q. Do any of those have secondhand
smoke-type
24 messages?
25 A. No. There's no reference at all to
anything
26 other than parenting. It's really a -- it's
really
27 encouraging parenting.
28 Q. Is it your understanding that -- or do
you have
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1 an understanding one way or the other as to
whether
2 Prop 10 funds will be used in this county for
3 environmental tobacco smoke-related education at
any
4 point?
5 A. I do not know. I would hope so.
6 Q. Do you have any understanding as to
whether the
7 legislation, given it's 0 to 5 focus, contemplates
that?
8 A. I don't know.
9 Q. Do you know the name of the person who is
the
10 head of the county commission? You told me the
name of
11 the commission, but I can't recall it.
12 A. Children And Families First, I think, is
what
13 they call it.
14 Q. Right.
15 A. I think that's what it's called
everywhere.
16 Q. I think you were going to tell me right
before

the 17 we broke for a moment the name of the person who's
18 head of the Children And Families First group?
19 A. At the county Board of Supervisors level,
it's 20 Blanca Alvarado. And I -- that's overseeing --
the 21 person that's primarily responsible for overseeing
that. 22 And I guess one of her top assistants is Jolene
Smith.

23 I think she's the coordinator for the group.

24 Q. And what is Blanca Alvarado's position
25 generally?

26 A. A member of the county Board of
Supervisors.
27 She's --

28 Q. That's, I guess, my question.

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1 A. Right.

2 Q. She's someone who's on the county Board
of 3 Supervisors?

4 A. Right, right.

5 Q. Not being from San Jose --

6 A. Okay. I'm sorry.

7 MR. GROSS: That's okay.

8 Off the record.

9 (Discussion off the record.)

10 MR. GROSS: Back on the record.

11 Q. Other than Prop 10, are there any other
groups 12 that you're aware of, also of course besides the
13 American Lung, Heart and Cancer that we've spoken
about, 14 who are engaged in Santa Clara County in doing
warning 15 and educational work about tobacco smoke?

16 A. Well, you know, this settlement that
we've

17 recently received, there is --

18 Q. You're referring to the master settlement
19 agreement, the \$240 billion nationwide?

20 A. Yes. I'm assume we're getting something
like 21 20 million a year for the next 25 years. And
there's 22 still a huge amount of discussion going on about
the use 23 of those funds.

24 Q. And now you're talking about the use by
25 Santa Clara County of their part of --

26 A. Of their portion of it, right. And all
those 27 organizations you just referred to, Heart, Lung,
Cancer, 28 Tobacco Control Coalition, are actively trying to
pursue

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tobacco 1 some portion of those funds to be used toward
2 education, prevention.
the 3 Q. Do you have an understanding as to what
4 procedure is that's being used to determine how to
5 allocate those funds?
it's 6 A. I'm not totally clear on that. I think
and he 7 primarily within one of the board of supervisors,
8 has appointed a committee of people who are coming
forth 9 with proposals, and it's involving quite a group
of 10 different folks, community representatives. I
think. 11 So, I mean, that seems to be the general approach
for 12 that.
Clara 13 Q. Do you know if the intention in Santa
funds 14 County, though, is to, generally speaking, use the
15 for tobacco-related education?
portion 16 A. I think the push right now is for some
17 of that to be for tobacco-related education, but
18 certainly not all the funds.
been, to 19 Q. And has anything been -- there haven't
20 your knowledge, any formal decisions made?
21 A. No, no. They're still being debated.
things 22 Q. I'll just tell you this, that one of the
23 that's in the master settlement agreement is --
was a 24 provision that for a period of time when
billboards 25 were -- that had previously had cigarette ads on
them 26 could no longer have ads on them, they were turned
over 27 to the state for use for whatever kinds of ads
they 28 wanted to put on them. Are you familiar with
that?

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County 1 A. Vaguely, yes.
2 Q. And do you know whether in Santa Clara
3 that resulted in any ads warning about the health
4 effects of tobacco smoke on billboards?
artwork 5 A. I see billboards with actually student
6 that's been blown up full billboard size talking
about 7 the hazards of smoking, yes. So I'm assuming -- I

don't

8 know for sure.

source?

9 Q. You don't know exactly the funding

10 A. Exactly, yes.

11 Q. But it could be the MSA?

12 A. It could be.

13 Q. And do any of those ones that you've seen
14 relate to secondhand smoke?

early

15 A. It's more just smoking in general and

-- it

16 death, you know, those kinds of things. The kids

17 looks like kids artwork. And so, I mean, it's not

18 specifically environmental tobacco smoke.

anecdotally?

19 Q. But you've only sort of seen them

20 A. Right, exactly.

you

21 Q. How about area hospitals and HMOs? Are

public or

22 aware of anything they do either to warn the

smoking

23 warn their patients about the health effects of

24 and environmental tobacco smoke?

into

25 A. Not really. I mean, I really don't get

26 that arena.

think,

27 Q. Right. You had mentioned earlier, I

on 4th

28 that the TUPE program focuses on -- now at least

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through

1 through 8th grade, in part because there's another

2 federally funded program that covers all of K

being

3 12. I think you also mentioned something about

for

4 able to contract to get -- to try and win a grant

5 funds for the other grades --

6 A. Right.

7 Q. -- through the -- that are Prop 99 funds?

8 A. That's right.

9 Q. How does that work?

grant

10 A. Well, you have a copy of the competitive

grants

11 there, and it's -- basically, it's two types of

12 that are available.

Grades 9

13 One is for Grades 9 through 12. And they

14 have -- they can design regular programs for

general

15 through 12 using materials that have already been

16 designated to be successful. And so it's just a

successful

17 program of implementing already acknowledged

18 materials. Or they can try to set up innovative

19 programs in which they try their own approach, and

if
20 they can give a strong enough argument, they can
21 actually have this new innovative program.
22 Q. I just want to see if we're looking at
the same
23 thing. Is this the same document?
24 A. No, it isn't. It's one I gave you this
25 morning.
26 MR. GROSS: Can we go off the record for
a
27 moment.
28 (Discussion off the record.)
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1 (Whereupon, Defendants' Exhibit 454 was
marked
2 for identification.)
3 MR. GROSS: Can we go back on.
4 Q. I've now marked as Exhibit 454 a copy of
the
5 document that I believe you were just referring
to. Is
6 that correct?
7 A. That's correct.
8 Q. And this is a competitive request for
9 application; is that right?
10 A. That's right.
11 Q. Can you just tell me a little bit about
what
12 this is for?
13 A. This goes out to all Grades 9 through 12,
and
14 again, it's for either just a standard Tobacco
Education
15 Program that's based on delivery of already --
certain
16 materials the state has already acknowledged to be
17 successful types of materials.
18 So if they're willing to implement those,
they
19 design a program in how they're going about
reaching the
20 total population and the high-risk population.
21 And then there's an innovative piece to
this
22 where districts are allowed to design their own
program
23 for the same population, total population and high
risk
24 population. And if they can argue for the
innovation,
25 then they can receive funding as well.
26 Q. The idea with the innovation was they're
going
27 to create an incentive for school districts to
actually
28 come up with new and innovative --
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1 A. Exactly.
2 Q. -- ways to go about warning students?
3 A. Exactly. And these are sent out to every
4 district superintendent. And I have a list of
people
5 who always want to be notified when these are out.
So
6 there's a lot of -- people are acquainted with
this now.
7 Q. So do the Santa Clara County schools that
have
8 9th through 12th grade schools in the districts of
9th
9 through 12th grade schools typically seek these
grants?
10 A. Yes, they do. The majority of our high
schools
11 have these grants.
12 Q. And these grants then fund further
tobacco
13 education programming --
14 A. That's correct.
15 Q. -- for 9th through 12th grade? Okay.
16 A. It's a very cumbersome process.
17 Q. Okay. Well, we kind of got off for a
moment of
18 the topic of other groups that provide warnings.
19 Are there any other groups, other than
the ones
20 we've discussed so far today, that you can think
of that
21 are providing warnings related to tobacco smoke in
22 Santa Clara County?
23 A. To my -- I think -- to my knowledge, I
think
24 we've touched on every one of them.
25 Q. There could be other ones, but you don't
know
26 of them?
27 A. That's correct.
28 Q. Okay. Have you ever been contacted by
any

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1 person representing or indicating that they
represented
2 the plaintiffs in a lawsuit that is the subject of
3 today's deposition?
4 A. No, I don't think so.
5 Q. I'm going to ask you if you've heard of a
6 number of different people before. Just tell me
if
7 you've ever even heard of them. That'll probably
be the
8 fastest way to go through it.
9 Have you ever heard of Mark Todzo?
10 A. No.
11 Q. Roger Carrick?
12 A. No.
13 Q. Paul Dowhall or Dowhall?
14 A. No.

15 Q. Deborah Sivas?
16 A. No.
17 Q. The American Environmental Safety
Institute?
18 A. I don't think so, no.
19 Q. I think I'd like to talk a little bit
about
20 budget-related information now.
21 Does your office keep a summary of the
amount
22 of Prop 99 funds that are paid out, I guess,
through the
23 TUPE program to the county and the districts on an
24 annual basis?
25 A. We did at one time, but we no longer do
that,
26 because the state oversees that completely. So
they
27 have all those records, and they handle all the
28 budgeting other than -- if they have issues with
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1 budgets, they contact us to help them solve them.
But
2 they are the final say-so on those things. So,
no, I
3 don't keep those records.
or
4 Q. Do you know -- do you have any estimate
Prop 99
5 could you make a general estimate about how much
of
6 funding the county schools and the county Office
of
7 Education have received each year?
8 A. Well, the county office receives -- has
9 averaged out to about \$100,000 a year, give or
take a
10 little bit. There was -- initially, the funding
was
11 fairly high, and then it dropped down
significantly, I
12 think, because they decided to disburse it in
different
13 ways, with regional centers and a variety of
things.
14 And one year it was like \$70,000 at the
county
15 level for the administrative overhead, which is
hardly
16 any money at all, but now it's up to about
\$100,000 per
17 year.
18 For the schools it's around -- the 48
programs
19 is probably -- it's less than a million dollars.
It's
20 like \$850,000.
21 Q. That's per year?
22 A. Per year. That's for all the schools, 4
23 through 8.
24 And at this point, it has dropped

25 significantly. It used to be millions, a
26 couple million.
27 Q. And that was, again, for Grades 4 through
8 it
28 used to be --
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1 A. At K-12 it was really over -- oh, it was
close
2 to 2 million a year, I guess.
3 Q. Are you saying that back when the program
4 covered K through 12 and before the federally
funded
5 program came in -- well, actually the federally
funded
6 program was already there.
7 A. Was already there. Before the state
started --
8 well, not only was there a significant decrease, I
9 guess, in their revenue immediately, there was a
drop,
10 but then they distributed the funds in different
ways.
11 Q. And so there was a period early in the
program
12 when it was more like \$2 million a year to the
schools.
13 Is that what you were saying?
14 A. Right. And that's a rough estimate. I
15 probably should -- I mean, I'm estimating, but I
know it

16 was over a million.
17 Q. I understand.
18 A. And now it's like 800,000, 850,000.
19 But the competitive grants, I know that
the
20 high schools in our county have received close to
a
21 million dollars in total allocations for these
22 competitive grants.
23 Q. And that's like -- for example, that's
last
24 year?
25 A. Right, last year.
26 Q. And would that figure have been a similar
27 figure for the previous year?
28 A. No, it wouldn't have, because the
competitive

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1 grant process has only started in the past, oh,
gosh,
2 three or four years and maybe a little bit longer.
3 But it takes a long time for people to
become
4 aware of these and to recognize their availability
and
5 then how to access them. So it's only been in the
past

6 year or so that people are really aware that this
is out
7 there and making use of it.
8 Q. So, in other words, three years ago
people
9 started maybe getting some funds, and it's grown
each
10 year as people -- as districts become more aware
of that
11 funding source?
12 A. Exactly. And as they make use of it and
they
13 build on it.
14 MR. GROSS: I do think I have one or two
15 documents that have some budgetary information on
them.
16 I don't have a lot of them. Mark this as the next
17 exhibit.
18 (Whereupon, Defendants' Exhibit 455 was
marked
19 for identification.)
20 MR. GROSS: Q. I put before you
21 Exhibit No. 455, which on the front is a memo from
the
22 Santa Clara County Board of Education -- or
rather, to
23 the Santa Clara County Board of Education.
24 Do you recognize this document?
25 A. Yes, vaguely. It's been a while.
26 Q. Towards the back there's a control number
at
27 the bottom right that says SC 000223. Do you see
the
28 control numbers?
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1 A. Oh, at the bottom? Okay.
2 Q. There are several boxed entries on this
page.
3 One of them says "Santa Clara School Districts -
Prop 99
4 Allocations." It has a number for 1989 to 1990 of
5 1.4 -- \$1,411,802.
6 A. Right.
7 Q. Would that reflect the amount for that
fiscal
8 year that had been made available through Prop 99
to the
9 Santa Clara County district schools?
10 A. Right.
11 Q. Would that include the administrative
budget?
12 A. No, it would not. That's just -- just to
13 the -- let's see. Santa Clara County district.
It's
14 just to the districts.
15 Q. Do you know that to be an accurate
number, or
16 do you just believe it to be accurate?
17 A. For the district's allocation? I'm sure
that's

18 an accurate number.
19 Q. Because this document, you mean, is an
accurate
20 reflection?
21 A. Right. This was a board presentation --
22 Q. Okay.
23 A. -- that I put together, and I'm sure --
that's
24 when I was actually keeping track of the
allocations.
25 Q. I see.
26 A. And so during '89-90, that 1 million -- I
know
27 it was over a million to the districts. And then
in
28 '96-'97, the previous year, it had been the amount
below
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1 that.
2 Q. So \$647,332?
3 A. Right. I wonder why there's such a
difference?
4 Q. And --
5 A. I know why I did that. I was showing
that
6 there had been a significant decrease in that
period of
7 time. I mean, look at the difference there in the
8 amounts.
9 Q. And more recently, though, some of that
10 decrease has been made up through the competitive
grant
11 programs?
12 A. Right, that's right.
13 MR. GROSS: Next exhibit.
14 (Whereupon, Defendants' Exhibit 456 was
marked
15 for identification.)
16 MR. GROSS: Q. Okay. I've placed before
you
17 Exhibit No. 456. Do you recognize this document?
18 A. Oh, yes. It's information that went out
about
19 our nonsmoking policy.
20 Q. And in this document, in the second
paragraph,
21 there's a reference to ". . . TUPE/DFSC monies
shared by
22 Santa Clara County schools and COE programs
totaled more
23 than \$2 million in a recent year."
24 A. Um-hum.
25 Q. Do you know what that refers to?
26 A. Right. That's both the federal funding,
the
27 K-12 federal funding for Safe and Drug-Free
Schools, and
28 the Tobacco-Use Prevention Education for the
tobacco

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funding 1 program, and that would be probably the total
2 for our office as well as all the schools.
3 Q. And that was for -- would that have been
for 4 1994, based on the date of this memo?
5 A. In a recent year . . .
6 So probably, right.
7 Q. When it refers to COE programs, is that
the 8 same thing as the administrative budget or is
there 9 something that's outside the administrative budget
10 that's within COE programs?
11 A. It was probably in reference to our
county 12 programs, our county school programs. They
receive an 13 allocation based on the average daily attendance
of 14 students in those programs.
15 Q. So that's a DFSC money, right, because
that's 16 based on average daily attendance?
17 A. Right.
18 Q. Do you know how much the DFSC monies have
been 19 generally in each year they have come to the Santa
Clara 20 County education district? And I use that term to
try 21 and encompass both to your office and to the
schools. 22 A. Well, this office receives a nominal
amount of 23 Safe and Drug-Free School money. I think it
averages 24 out -- for the longest time it was around 11-,
12-, 25 \$13,000, and I think it's up to 25 now. So it's a
very 26 limited amount of money.
27 But the school districts receive about an
28 average of \$4.20 cents per ADA. And that's if
they're

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district, 1 just a typical school district. If they've been
2 identified as a high-risk, high-needs school
3 they get up to \$16 per ADA.
4 Q. Again, ADA is average daily attendance?
5 A. Average daily attendance, yes.
6 And in order to be identified as a
high-need 7 district, they have to have data -- actually have
to do 8 a survey and collect the data to support that.

And it's
other
that have
those
only for
three
those
track
these
I
obtaining
as it
the
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1 amount that each county, probably even each school
2 district, have gotten over the years for DF --
3 A. Safe and Drug-Free Schools, yeah.
4 Q. -- Safe and Drug-Free Schools money?
5 A. I'm sure they do. I'm sure they have
data on
6 that.
7 Q. Do you know who keeps that kind of data
at the
8 Department of Education?
9 A. Yes. Patty Macias is the person who
actually
10 oversees the budget. It's M-a-c-i-a-s.
11 Q. She's at the Department of Education?
12 A. Right. Healthy Kids Office.
13 Q. Is there a subgrouping or subdivision
within
14 the Healthy Kids Office that generally deals with
15 budgetary information?
16 A. There are designated people in that
office.
17 And I think Patty generally is kind of overseeing
the
18 whole effort. I think she has other people
working with
19 her. There may be several other people involved.

20 Q. So maybe they form some sort of a named
group,
21 but you don't know the name of it?
22 A. I don't think that they are their own
23 individual named group. They are -- they work in
the
24 Healthy Kids Office, and they are staff of the
Healthy
25 Kids Office.
26 Q. Do you know how many students there are,
27 roughly speaking, in the entire Santa Clara County
28 school district?

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1 A. Roughly, there's about 250,000.
2 Q. So then, at a minimum, just doing the
math, the
3 Safe and Drug-Free Schools program gives rise to a
4 million dollars a year for those?
5 A. Probably.
6 Q. And the reason I say "a minimum" is
because
7 some of those schools are getting \$16 per ADA.
8 A. That's an estimate. I'll just go with
whatever
9 you're -- what your numbers are.
10 Q. Okay. I'm just doing math.
11 A. Okay.
12 Q. Okay. I understand you're not willing to
go
13 out there with a specific number.
14 A. Right.
15 Q. When money comes into a school district
for --
16 either from the TUPE funding or from the Safe and
17 Drug-Free Schools funding, how does the school
district
18 make its decisions as to how to spend the money?
19 A. For this particular -- for these
fundings, the
20 school districts are supposed to have an advisory
board
21 in place that helps them direct their efforts.
The
22 guidelines are specific about certain kinds of
23 allocations, but there are -- there are small
pieces of
24 that that are kind of discretionary based on the
25 identified needs of the school district.
26 And they have to do -- they have to
follow
27 what's called principles of effectiveness. They
have to
28 do an assessment. They have to establish goals
and

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1 objectives. They have to implement research-based
2 strategies, and they have to do evaluation. And

so how
the
their
3 they accomplish that with their advisory group is
4 whole goal of the program. And so they allocate
5 funds to accomplish that set of guidelines.
6 Q. How do they do evaluation? What sort of
7 evaluation -- maybe a better way to ask it is:
Can you
8 describe the sorts of evaluation programs that
school
9 districts do? And is that also something that
ends up
10 getting put into or summarized in their annual
reports
11 to the state?
12 A. Evaluations are a very difficult thing.
And
13 what has occurred in the past three plus year is
that
14 the state departments actually set up their own
center
15 to help with the evaluation component. They call
it the
16 Healthy Kids Survey. And they support -- they
17 underwrite the Healthy Kids Survey. They've
contracted
18 with WestEd to do this, and they underwrite the
survey
19 to help districts implement it.
20 The problem with surveys in the State of
21 California is that you have to have positive
parental
22 permission, which means that schools have to have
on
23 file written consent for every student that takes
the
24 survey. It's an incredibly time-consuming
process. And
25 so a lot of the districts are reluctant to move
toward
26 doing those types of surveys.
27 What they do do is collect data that they
28 already have on hand. They look at their

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1 Safe Schools Assessment data, which is crime
reporting;
2 they look at their attendance rates, their dropout
3 rates, their grading systems, their behavioral
referral
4 rates; and they try to compile all of that and see
if
5 they can come up with goals and objectives based
on that
6 data.
7 We've had to -- there's still some work
being
8 done around that. They still have to do surveys
in

9 order to address the performance indicators as
part of
10 the application. And so the performance
indicators of
11 the application process have to be reported on a
regular
12 basis. And they have to show their form of
measurement,
13 how they measure.
14 So I don't know. Have I answered your
15 question?
16 MR. GROSS: I think so. I think so.
17 Let's take a break.
18 (Recess taken.)
19 MR. GROSS: Do you want to go back on the
20 record?
21 Q. Earlier, before the break, we were
talking
22 about evaluations, and you had mentioned that the
23 Department of Education does something called the
24 Healthy Kids Survey. Now, is that a comprehensive
25 statewide survey of some sort?
26 A. It's a survey that is delivered in each
27 individual school district. And actually, what
they do
28 is try to adjust the survey for the needs of the
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1 district. It's kind of a fluid process.
2 It's based on the youth risk behavior
survey --
3 I don't know if you're familiar with that -- which
is a
4 national survey sponsored by Centers for Disease
5 Control. But they're trying to tweak it for the
6 district so they can help the districts get
additional
7 information -- they really want to support the
districts
8 in the delivery of the survey. And it's a very
9 complicated process, so they're trying to adjust
it in a
10 variety of ways so that districts can make use of
it
11 with data that they perhaps need, and also provide
the
12 data that the state department needs.
13 That's a long answer.
14 Q. I see. And is some of the data that is
-- does
15 that survey include data about the awareness of
students
16 about the health effects associated with
environmental
17 tobacco smoke?
18 A. Environmental tobacco smoke. Usually
it's more
19 use. They ask kids about actual tobacco use.
20 Q. I see. So not about attitudes or
beliefs,
21 but --

22 A. Well, yes. They have questions that get
at
23 attitudes and beliefs as well. So, I'm not an
expert on
24 the survey.

25 Q. It may or may not?

26 A. It may or may not.

27 Q. And who at the Department of Education is
28 responsible for compiling that information?

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1 A. Well, actually, they contract with
WestEd, and

2 WestEd has their own Healthy Kids Survey
Department now

3 where they work with districts.

4 But the person at the state Department of
Ed

5 that kind of oversees that is Myra Young, and
she's one

6 of the names listed on that document that I gave
you

7 earlier.

8 Q. I see. And how long has that survey been
done

9 for? Is it an annual survey?

10 A. It's every two years, and I think we're
11 probably at about the third or fourth year.

12 Q. So --

13 A. It's fairly new.

14 Q. So there's just been one of them, and
you're

15 probably in the process of collecting the second?

16 A. Right.

17 Q. Does your office have a website?

18 A. A website? Yes, we do.

19 Q. Does it include information about tobacco
smoke

20 on it?

21 A. It includes information about the
Tobacco-Use

22 Prevention Education program and who to contact
and that

23 type of thing, but nothing specific about tobacco
smoke.

24 Q. Does it provide any links to other sites
that

25 provide health information about tobacco smoke?

26 A. I don't think so.

27 Q. Let's go over a couple more documents
that you

28 gave to me. Before I mark this as an exhibit, I'm
going

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1 to first show it to you to make sure I have this
2 correct. Is this one of the documents that you

gave to
3 me today that you have a copy of?

4 A. Yes.
5 MR. GROSS: Okay. Let's mark this
document as
6 exhibit next in order.
7 (Whereupon, Defendants' Exhibit 457 was
marked
8 for identification.)
9 MR. GROSS: Q. Can you tell me what this
10 document is, Exhibit 457?
11 A. These are the program guidelines and
12 requirements for the Tobacco-Use Prevention
Education.
13 Q. And the Department of Education puts
these out?
14 A. That's correct.
15 Q. And so I notice it says "Working Draft"
in the
16 upper right-hand corner on some of them. So is
this a
17 draft of the guidelines for '98, or is it the
actual
18 guidelines?
19 A. Generally, it's the guidelines. I think
if
20 there have been any revisions, they're nominal.
21 Q. I see.
22 A. It's the only set of guidelines I could
get my
23 hands on.
24 Q. Right. And the purpose of these
guidelines is
25 to tell the county offices of education and the
26 districts what they're supposed to be doing,
27 essentially?
28 A. Yes.
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1 Q. Or provide guidance in that regard?
2 A. Right.
3 Q. On page 9 there's a reference to the
DHS's
4 contract with the Gallup organization for a
three-year
5 evaluation of the community schools and media
efforts to
6 reduce the use of tobacco products.
7 A. Uh-huh.
8 Q. Do you know what that evaluation program
is?
9 A. I know that the state department has done
a
10 number of different surveys, working with
different
11 agencies as the Department of Health Services.
And what
12 they're asking is that schools, if they're
contacted, be
13 a part of the survey process. And they're
assuring that
14 they will be by accepting these funds.
15 Q. I see.

16 A. I personally didn't get involved in this
survey
17 or didn't hear of anyone in our county being
involved in
18 it.
19 Q. Is this the -- do you know if this is the
thing
20 that's been referred to in the past as the Wave 1
report
21 by at least people in the Department of Health
Services?
22 A. I'm unsure.
23 Q. Okay. Have you reviewed this document?
24 A. Yes, I have.
25 Q. Based upon your review, does it
accurately
26 summarize the program, and is the guidance that's
27 provided in here accurate?
28 A. Yes, I think so. Pretty much gives
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1 straightforward recommendation -- guides for how
you
2 submit your application, and then all the various
3 resources that are available and different roles
that
4 different agencies play.
5 Q. There are places, for example, where it
6 describes the Department of Education mission
statements
7 on page 2. The just basic foundational
information in
8 here about the program, based on your review, is
it
9 accurate?
10 A. I think it's fairly accurate, yes.
11 Q. There there's a reference on page 4 to
the TUPE
12 work group on the bottom. Do you know what that
is?
13 A. I'm not seeing -- on page 4?
14 Q. It's page 4, the paragraph on the bottom
right,
15 begins with "The CDE collaborates closely."
16 A. Sounds like their own advisory group.
17 Q. Okay. But you don't know specifically
about
18 that?
19 A. No.
20 Q. On page 7, where it references the
California
21 Healthy Kids Program dissemination center --
22 A. Right.
23 Q. -- is that the L.A. dissemination center
that
24 we've talked about earlier?
25 A. Right, uh-huh.
26 Oh, good. And also on the next page it
gives
27 you contacts. Peggy is the consultant for that
program.

28 Q. Right.

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1 A. And Gus oversees Peggy.

2 Q. I see. What's the California -- oh, the
3 California Healthy Kids Survey Regional Centers,
that
4 relates to the survey you were talking about
earlier?

5 A. Right.

6 Q. On page 22 there's a reference on the top
to
7 coordinated compliance reviews.

8 A. Yes.

9 Q. What are those?

10 A. Those are -- and in the back of this,
you'll
11 see there's a whole document about the coordinated
12 compliance review. It's every -- I think it's
four
13 years now.

14 Every four years various counties are
targeted
15 for compliance reviews. And it's a team of people
who
16 go into the districts and school sites to comb
through
17 their records and their processes and look for
evidence
18 that things are being done according to state
19 guidelines.

20 And this document that's the back portion
are
21 the specific pieces of evidence documentation
that's
22 looked for for the tobacco and Safe and Drug-Free
School
23 program.

24 Q. So this is a way in which the Department
of
25 Education makes sure that the funds are being
spent
26 properly and that the programs are being
implemented and
27 that the -- ultimately, in this case, the tobacco
28 education is actually taking place?

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1 A. That's correct.

2 Q. How often does -- you said every four
years,
3 certain districts?

4 A. I think it's every four years, right.
Ours is
5 coming up next year, and I think it's been about
four
6 years since we've gone through that.

7 Q. I see. So every district -- every county
has

8 this happen once every four years?
9 A. Right. And it's just select schools
within the
10 county. It's not like they go through every
single
11 school.
12 Q. I see. Okay. Do the school districts
rely
13 upon this program guideline as their guidance for
their
14 day-to-day performance of their responsibilities?
15 A. They generally rely upon it for their
16 application process. And -- yes, generally.
17 Q. Are there other guideline documents that
18 provide more detail, here's what you're supposed
to do
19 exactly?
20 A. Well, this is generally my piece. The
21 application process itself is this that I gave you
22 earlier as well. And these are -- it's basically
the
23 same information, but they're guidelines for the
24 districts that are more specific to completing the
25 application process.
26 MR. GROSS: Okay. Let's mark this as
exhibit
27 next in order.
28 (Whereupon, Defendants' Exhibit 458 was
marked
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1 for identification.)
2 MR. GROSS: Q. I've put in front of you
3 Exhibit 458, which is also a document that was
produced
4 to us in an earlier litigation by your county.
5 Is this a familiar document to you?
6 A. Yes, um-hum. It's the Healthy Kids
resource
7 listing of tobacco programs. Well, actually, this
is
8 prevention and education strategies and materials.
9 Q. So what is this document meant to
summarize?
10 A. I think it's probably looking at -- let's
see.
11 These are materials that really highlight
particular
12 strategies and resources for implementing tobacco
13 education.
14 Q. Is this resource list used by the Santa
Clara
15 County schools?
16 A. I'm sure that they have used pieces of
this,
17 yes.
18 Q. When you say -- you mean things that are
on
19 this resource list?
20 A. Right, yeah. Items from this.
21 Q. Can you turn to -- do you have print on

both

22 sides of yours?

23 A. Yes. There's -- here's the page numbers

over

24 in the corner.

25 Q. Right. The one that's SC 001336.

26 A. Do you have a page number for that?

27 Q. Well, yeah. Those are page -- these go

in

28 order. So this one, it's 1336. It's actually the

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1 second page from the end.

2 A. Okay.

3 Q. Maybe that's the easiest way to look at

it.

4 A. Oh, from the end?

5 Q. Yeah.

6 A. Oh, I see.

7 Q. It's page 10 on the document's own

pagination.

8 A. Okay. Uh-huh?

9 Q. Under audio and visual -- "Audiovisual

10 Materials," there's one called "Baby & Me Smoke

Free."

11 A. Right.

12 Q. Are you familiar with that piece of

audiovisual

13 material?

14 A. No, I'm not.

15 Q. Okay.

16 A. I've heard of these materials, and I hear

17 district people talking about them, referencing

them,

18 but I don't -- I haven't personally previewed the

19 materials.

20 Q. Okay. Do you know if the district people

who

21 have referenced the materials have used this

material?

22 A. I'm sure, especially in their teen

parenting

23 programs, that they have.

24 Q. Okay. Do you have any -- does your

office keep

25 any -- strike that.

26 Does your office do any tracking of media

27 articles that exist that come out about

smoking-related

28 issues?

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1 A. No, I do not.

2 Q. Do you track ads that have been aired or

you

3 know if there are print ads posted in the county?

4 A. No, not really. We're really not

involved in

5 the media aspect of this.

6 MR. GROSS: Right. I just asked, you
know, on 7 the off chance.
8 THE WITNESS: Okay.
9 MR. GROSS: Okay. Let's mark this as
10 exhibit next in order.
11 (Whereupon, Defendants' Exhibit 459 was
marked 12 for identification.)
13 MR. GROSS: I've I think put before you
14 Exhibit 459.
15 I think it's Exhibit 459; correct?
16 THE COURT REPORTER: Yes.
17 MR. GROSS: Q. Do you recognize this
document?
18 A. This is -- is this the subpoena that
we've just 19 received?
20 Q. Right. This is -- I should just not hide
the 21 ball on this. This is the document that is the
notice 22 of taking deposition and the subpoena that went
with it 23 for the deposition we're having today.
24 A. Right.
25 Q. I just wanted to make sure you recognize
it. 26 A. I recognize this portion of it. I
haven't seen 27 these three pages.
28 Q. That's just the notice part that says --
okay.
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1 And are you the person who gathered the
2 documents for the purposes of responding to this
and for 3 today's deposition?